

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

(a) PLAINTIFFS Riverport Insurance Company, a Minnesota corporation	DEFENDANTS Oakland Community Housing, Inc., a California corporation; Cahon Associates, a California limited partnership; (**See attached continued)
(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)	County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.
(c) Attorney's (Firm Name, Address, and Telephone Number) Sedgwick, Detert, Moran & Arnold LLP, Bruce D. Celebrezze SB# 102181 Brian D. Harrison SB# 148445/Dean McElroy SB# 213133 One Market Plaza, Steuart Tower, 8th Floor, San Francisco, CA 94105 Telephone: (415) 781-7900, Facsimile: (415) 781-2635	Attorneys (If Known) <div style="font-size: 2em; font-weight: bold; text-align: center;">E-filing BZ ADR</div>

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|--|---|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL PROPERTY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosures Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Emp'l. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus—Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RS1 (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN (Place an "X" in One Box Only)

- | | | | | | | |
|---|---|--|---|--|---|--|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify) | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment |
|---|---|--|---|--|---|--|

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 28 U.S.C. § 1332
 Brief description of cause:
 Complaint for Declaratory Judgment and Reimbursement

VII. REQUESTED IN COMPLAINT:

- ☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ Exceeds \$75,000 CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)

(PLACE AND "X" IN ONE BOX ONLY)

DATE
August 13, 2008

SIGNATURE OF ATTORNEY OF RECORD

☒ SAN FRANCISCO/OAKLAND

☐ SAN JOSE

The John Stewart Company, a California corporation; Charles Fowlkes, an individual; Greg Hyson, an individual; and Loren Sanbord, an individual

Defendants.

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ORIGINAL

1 SEDGWICK, DETERT, MORAN & ARNOLD LLP
2 BRUCE D. CELEBREZZE Bar No. 102181
3 MICHAEL A. TOPP Bar No. 148445
4 DEAN J. MCELROY Bar No. 213132
5 One Market Plaza, Steuart Tower, 8th Floor
6 San Francisco, California 94105
7 Telephone: (415) 781-7900
8 Facsimile: (415) 781-2635

9 Attorneys for Plaintiff
10 RIVERPORT INSURANCE COMPANY

E-filing

FILED
AUG 13 2008
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BZ

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 RIVERPORT INSURANCE COMPANY, CASE NO. 3883
14 a Minnesota corporation,

15 Plaintiff,

16 v.

17 OAKLAND COMMUNITY HOUSING,
18 INC., a California corporation; CAHON
19 ASSOCIATES, a California limited
20 partnership; THE JOHN STEWART
21 COMPANY, a California corporation;
22 CHARLES FOWLKES, an individual;
23 GREG HYSON, an individual; and
24 LOREN SANBORN, an individual,

25 Defendants.

COMPLAINT FOR DECLARATORY
JUDGMENT AND REIMBURSEMENT

[JURY DEMAND INDORSED HEREON,
Fed.R.Civ.P. 38]

26 NOW COMES plaintiff Riverport Insurance Company (hereafter "Riverport") and alleges
27 as follows:

28 I. JURISDICTION AND VENUE

1. Jurisdiction of this action is founded upon 28 U.S.C. § 1332, as the parties are
citizens of different states and citizens or subjects of a foreign state, and the amount in
controversy exceeds the sum of \$75,000, exclusive of interest and costs.

2. Venue is proper in the Northern District of California pursuant to 28 U.S.C. § 1391(a)(2), in that this action seeks a declaration of the parties' rights and obligations under contracts of liability insurance in connection with a legal action concerning real property in Oakland, Alameda County, California, and therefore a substantial part of the events or omissions giving rise to the claim occurred in this district. Alternatively, venue is proper in this district pursuant to 28 U.S.C. § 1391(a)(3), in that one or more defendants are residents of California and this district and are therefore subject to personal jurisdiction in this district at the time the action is commenced.

II. PARTIES

3. Riverport is a corporation organized and existing under the laws of the State of Minnesota, with its principal place of business in Minneapolis, Minnesota.

4. Riverport is informed and believes and thereon alleges that defendant Oakland Community Housing, Inc. ("OCHI") is corporation organized and existing under the laws of the State of California, with its principal place of business in the County of Alameda, State of California.

5. Riverport is informed and believes and thereon alleges that defendant CaHon Associates ("CaHon") is a limited partnership organized and existing under the laws of the State of California, with its principal place of business in the County of Alameda, State of California.

6. Riverport is informed and believes and thereon alleges that defendant The John Stewart Company ("John Stewart") is a corporation organized and existing under the laws of the State of California, with its principal place of business in the City and County of San Francisco, State of California.

7. Riverport is informed and believes and thereon alleges that defendant Charles Fowlkes is an individual residing in the County of Alameda, State of California.

8. Riverport is informed and believes and thereon alleges that defendant Greg Hyson is an individual residing in the State of Georgia.

9. Riverport is informed and believes and thereon alleges that defendant Loren Sanborn is an individual residing in the State of California.

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III. PRELIMINARY ALLEGATIONS

A. The Riverport Insurance Policies

10. Riverport issued a series of commercial insurance policies ("the Riverport Primary Policies") to named insured Oakland Community Housing, Inc., commencing on May 29, 2005. Both OCHI and CaHon were named insureds under the Riverport policies. The policies issued by Riverport were as follows:

- Policy No. RIC 0006032 for the policy period May 29, 2005 to May 29, 2006 (the "2005-2006 Policy").
- Policy No. RIC 0007125 for the policy period May 29, 2006 to May 29, 2007 (the "2006-2007 Policy").
- Policy No. RIC 0008111 for the policy period May 29, 2007 to May 29, 2008 (the "2007-2008 Policy").
- Policy No. RIC 0009145 for the policy period May 29, 2008 to May 29, 2009 (the "2008-2009 Policy").

11. Riverport issued a notice of cancellation as to the 2008-2009 policy to become effective August 16, 2008.

12. The Riverport Primary Policies provided commercial general liability insurance subject to limits of \$1,000,000 per occurrence, \$1,000,000 for personal and advertising injury to any one person or organization, and a general aggregate limit of \$2,000,000.

13. The Riverport Primary Policies provided coverage pursuant to all of the terms, conditions, limitations, exclusions, and endorsements contained therein. The Riverport Primary Policies stated in part:

COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion,

investigate any “occurrence” and settle any claim or “suit” that may result. But:

- (1) The amount we will pay for damages is limited as described in Section **III** - Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages **A** or **B** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments Coverages **A** and **B**.

b. This insurance applies to “bodily injury” and “property damage” only if:

- (1) The “bodily injury” or “property damage” is caused by an “occurrence” that takes place in the “coverage territory”;
- (2) The “bodily injury” or “property damage” occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no “employee” authorized by you to give or receive notice of an “occurrence” or claim, knew that the “bodily injury” or “property damage” had occurred, in whole or in part. If such a listed insured or authorized “employee” knew, prior to the policy period, that the “bodily injury” or “property damage” occurred, then any continuation, change or resumption of such “bodily injury” or “property damage” during or after the policy period will be deemed to have been known prior to the policy period.

c. “Bodily injury” or “property damage” which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any “employee” authorized by you to give or receive notice of an “occurrence” or claim, includes any continuation, change or resumption of that “bodily injury” or “property damage” after the end of the policy period.

d. “Bodily injury” or “property damage” will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any “employee” authorized by you to give or receive notice of an “occurrence” or claim:

- (1) Reports all, or any part, of the “bodily injury” or “property damage” to us or any other insurer;
 - (2) Receives a written or verbal demand or claim for damages because of the “bodily injury” or “property damage”; or
 - (3) Becomes aware by any other means that “bodily injury” or “property damage” has occurred or has begun to occur.
- e. Damages because of “bodily injury” include damages claimed by any person or organization for care, loss of services or death resulting at any time from the “bodily injury”.

The terms “bodily injury,” “occurrence” and “property damage” are defined as follows in Section V – Definitions:

3. “Bodily injury” means physical injury, sickness, or disease sustained by a person, including death resulting from any of these. “Bodily injury” also means mental injury, mental anguish, humiliation, or shock sustained by a person, if directly resulting from physical injury, sickness, or disease sustained by that person. *[As amended by the General Liability Broadening Endorsement.]*

* * *

13. “Occurrence” means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

* * *

17. “Property damage” means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the “occurrence” that caused it.

* * *

14. The Riverport Primary Policies included the following additional terms of coverage under Coverage B – Personal and Advertising Injury Liability:

1. **Insuring Agreement**

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of “personal and advertising injury” to which this insurance applies. We will have the right and duty to defend the insured against any “suit” seeking those damages. However, we will have no duty to defend the insured against any

“suit” seeking damages for “personal and advertising injury” to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or “suit” that may result. But:

- (1) The amount we will pay for damages is limited as described in Section **III** - Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages **A** or **B** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments Coverages **A** and **B**.

- b. This insurance applies to “personal and advertising injury” caused by an offense arising out of your business but only if the offense was committed in the “coverage territory” during the policy period.

The term “personal and advertising injury” is defined in part as follows (as amended by the General Liability Broadening Endorsement):

- 14. “Personal and advertising injury” means injury, including consequential “bodily injury”, arising out of one or more of the following offenses:

* * *

- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling, or premises that a person occupies by or on behalf of its owner, landlord, or lessor;

* * *

15. The Riverport Primary Policies in effect after May 29, 2006 include an endorsement entitled “Additional Exclusion Endorsement,” Form No. MSHSGLCA05 (01/06). The endorsement provides that the insurance provided under Coverage A – Bodily Injury and Property Damage Liability does not apply to the following:

q. Vermin and Other Pests

“Bodily injury” or “property damage” caused by, resulting from, or in any way arising out of or involving, directly or indirectly, vermin, rodents, insects, arachnids, larva, worms (phyla Annelida, Nematoda or Platyhelminthes), fungus, mold or other noxious creature or substance.

r. Safe, Tenantable and/or Habitable Premises

“Bodily injury” or “property damage” caused by, resulting from, or in any way arising out of or involving, directly or indirectly, the failure to

maintain premises in a safe and habitable condition, as required by any statute, ordinance, regulation, rule or common law.

This endorsement also provides that the insurance provided under Coverage B – Personal and Advertising Injury Liability does not apply to the following:

p. Constructive Eviction

“Personal and advertising injury” caused by, resulting from, or in any way arising out of or involving, directly or indirectly, constructive eviction, regardless of the cause of such constructive eviction.

q. Habitability and Quiet Enjoyment

“Personal and advertising injury” caused by, resulting from, or in any way arising out of or involving, directly or indirectly, a breach of the warranty of habitability or a breach of the covenant of quiet enjoyment, regardless of the reason for either such breach.

r. Safe, Tenantable and/or Habitable Premises

“Personal and advertising injury” caused by, resulting from, or in any way arising out of or involving, directly or indirectly, the failure to maintain premises in a safe and habitable condition, as required by any statute, ordinance, regulation, rule or common law.

16. Riverport also issued a series of commercial excess liability insurance policies (“the Riverport Excess Policies”) to OCHI and CaHon commencing on May 29, 2005:

- Policy No. REL 000603 for the policy period May 29, 2005 to May 29, 2006 (the “2005-2006 Policy”).
- Policy No. REL 0007126 for the policy period May 29, 2006 to May 29, 2007 (the “2006-2007 Policy”).
- Policy No. REL 0008112 for the policy period May 29, 2007 to May 29, 2008 (the “2007-2008 Policy”).
- Policy No. REL 0009146 for the policy period May 29, 2008 to May 29, 2009 (the “2008-2009 Policy”).

The Riverport Excess Policies provided coverage pursuant to all of the terms, conditions, limitations, exclusions, and endorsements contained therein. The coverage provided by the Riverport Excess Policies was no broader than that provided by any underlying primary policies.

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1 17. The notice of cancellation as to the 2008-2009 Riverport Primary Policy to
2 become effective August 16, 2008, also provided notice of cancellation as to the 2008-2009
3 Riverport Excess Policy.

4 18. The Riverport Primary Policies and the Riverport Excess Policies shall be referred
5 to collectively hereafter as the "Riverport Policies."

6 B. The Underlying Action

7 19. Leroy Scroggins and over 50 additional plaintiffs filed a complaint for damages
8 against OCHI, CaHon, John Stewart, Fowlkes, Hyson, and Sanborn in Alameda County Superior
9 Court on July 3, 2008, Case No. RG08396398 ("the *Scroggins* action"). A true and correct copy
10 of the complaint in the *Scroggins* action is attached hereto as Exhibit A.

11 20. The complaint in the *Scroggins* action alleges that OCHI, CaHon, John Stewart,
12 Fowlkes, Hyson, and Sanborn are liable for damages and other relief in connection with their
13 alleged ownership, maintenance and operation of a low-income residential building known as the
14 California Hotel in Oakland, California.

15 C. The Tender of Defense

16 21. OCHI notified Riverport of the *Scroggins* complaint and requested that Riverport
17 defend and indemnify OCHI, CaHon, Fowlkes, and Hyson. After investigating the matter,
18 Riverport notified OCHI, Cahon, Fowlkes, and Hyson that it would accept the tender of their
19 defense of the *Scroggins* action under a full and complete reservation of rights. Riverport also
20 notified these defendants that it disputed coverage and reserved the right to seek a declaratory
21 judgment from the court.

22 22. Riverport has incurred and will incur attorneys' fees and other expenses in
23 connection with its defense of OCHI, CaHon, Fowlkes, and Hyson in the *Scroggins* action.

24 23. Subsequently, Stewart and Sanborn requested that Riverport defend and
25 indemnify them against the *Scroggins* complaint, claiming that they were additional insureds
26 under Riverport Policies. After investigating the matter, Riverport notified Stewart and Sanborn
27 that it would not accept the tender of their defense of the *Scroggins* action. Riverport also
28

1 notified these defendants that it disputed coverage and reserved the right to seek a declaratory
2 judgment from the court.

3 IV. FIRST CLAIM FOR RELIEF – DECLARATORY JUDGMENT AS TO JOHN
4 STEWART AND SANBORN

5 24. Riverport incorporates herein by reference, as if fully restated, paragraphs 1
6 through 23 above.

7 25. An actual controversy has arisen and now exists between Riverport, on the one
8 hand, and the defendants, on the other hand, concerning their respective rights and duties under
9 the Riverport Policies.

10 26. Riverport contends it has no duty to defend John Stewart or Sanborn, or to satisfy
11 any judgment rendered against them in the *Scroggins* action, on the grounds that the Riverport
12 Policies do not apply to the claims asserted against them in the *Scroggins* action, and that
13 Riverport had no duty to issue to John Stewart or Sanborn a notice of cancellation of the 2008-
14 2009 Riverport policies, on the grounds that John Stewart or Sanborn are not a party or a
15 beneficiary to the 2008-2009 Riverport policies.

16 27. Riverport is informed and believes that defendants John Stewart and Sanborn
17 contend that Riverport is obligated to provide them a defense to the *Scroggins* action, and to
18 indemnify them for any damages up to the policy limits that may be awarded against them in the
19 *Scroggins* action, and that Riverport has a duty to issue to them a notice of cancellation of the
20 2008-2009 Riverport policies.

21 28. Riverport desires a judicial determination of its rights and duties under the
22 Riverport Policies, if any, with respect to the claims made against John Stewart and Sanborn in
23 the *Scroggins* action and with respect to the notice of cancellation of the 2008-2009 Riverport
24 policies to become effective August 16, 2008.

25 29. A judicial determination is necessary and appropriate at this time under the
26 circumstances in order that the parties may ascertain their rights and duties as aforementioned.
27 Said controversy is incapable of resolution without judicial adjudication. Accordingly, Riverport
28 has no plain, speedy and adequate remedy at law, and requests a declaratory judgment, adjudging

1 and declaring that Riverport has no duty to defend John Stewart or Sanborn, or to indemnify or
2 satisfy any judgment rendered against them in the *Scroggins* action, or to issue to them a notice
3 of cancellation of the 2008-2009 policies.

4 V. SECOND CLAIM FOR RELIEF – DECLARATORY JUDGMENT AS TO OCHI,
5 CAHON, FOWLKES AND HYSON

6 30. Riverport incorporates herein by reference, as if fully restated, paragraphs 1
7 through 29 above.

8 31. An actual controversy has arisen and now exists between Riverport, on the one
9 hand, and the defendants, on the other hand, concerning their respective rights and duties under
10 the Riverport Policies.

11 32. Riverport contends it has no duty to indemnify or to satisfy a judgment for
12 damages against OCHI, CaHon, Fowlkes, or Hyson in the *Scroggins* action, to the extent such
13 damages fall outside the terms of coverage provided by the Riverport Policies.

14 33. Riverport further contends it has no duty to pay for the cost of compliance with
15 court orders issued against OCHI, CaHon, Fowlkes and Hyson in the *Scroggins* action, to pay for
16 rent rebates or other restitutionary relief or disgorgement ordered by the court, or to bear the cost
17 of other relief sought by the plaintiffs in the *Scroggins* action which falls outside the terms of
18 coverage provided by the Riverport Policies.

19 34. Riverport is informed and believes that defendants OCHI, CaHon, Fowlkes, and
20 Hyson contend that Riverport is obligated to provide them a defense to the *Scroggins* action, and
21 to indemnify them for any damages up to the policy limits that may be awarded against them in
22 the *Scroggins* action, as well as to satisfy the cost of compliance with court orders issued against
23 OCHI, CaHon, Fowlkes and Hyson in the *Scroggins* action, to pay for rent rebates or other
24 restitutionary relief or disgorgement ordered by the court, or to bear the cost of other relief sought
25 by the plaintiffs in the *Scroggins* action.

26 35. Riverport desires a judicial determination of its rights and duties under the
27 Riverport Policies, if any, with respect to the claims made against OCHI, CaHon, Fowlkes and
28 Hyson in the *Scroggins* action.

36. A judicial determination is necessary and appropriate at this time under the circumstances in order that the parties may ascertain their rights and duties as aforementioned. Said controversy is incapable of resolution without judicial adjudication. Accordingly, Riverport has no plain, speedy and adequate remedy at law, and requests a declaratory judgment, adjudging and declaring (a) that Riverport has no duty to indemnify or to satisfy a judgment for damages against OCHI, CaHon, Fowlkes, and Hyson in the *Scroggins* action, to the extent such damages fall outside the terms of coverage provided by the Riverport Policies; and (b) that Riverport has no duty to pay for the cost of compliance with court orders issued against OCHI, CaHon, Fowlkes and Hyson in the *Scroggins* action, to pay for rent rebates or other restitutionary relief or disgorgement ordered by the court, or to bear the cost of other relief sought by the plaintiffs in the *Scroggins* action which falls outside the terms of coverage provided by the Riverport Policies.

VI. THIRD CLAIM FOR RELIEF – REIMBURSEMENT

37. Riverport incorporates herein by reference, as if fully restated, paragraphs 1 through 36 above.

38. Riverport has incurred and will incur attorneys' fees and other expenses in connection with its defense of OCHI, CaHon, Fowlkes and Hyson in the *Scroggins* action, and may incur indemnity which may be paid in connection with resolution of the *Scroggins* action.

39. Riverport had no duty under the Riverport Policies to afford a defense or to pay indemnity to some or all of the claims within the *Scroggins* action, and therefore has an equitable and quasi-contractual right to be reimbursed by them for some or all attorneys' fees, costs, and other expenses including any indemnity which may be paid or incurred by Riverport in the defense and/or settlement of the *Scroggins* action, pursuant to *Buss v. Superior Court*, 16 Cal.4th 35, 65 Cal.Rptr.2d 366, 939 P.2d 766 (1997), and related cases.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Riverport Insurance Company prays for relief as follows:

1 1. For a judgment that, by reason of the terms, conditions, exclusions and limitations
2 of the Riverport Policies, Riverport has no duty to defend John Stewart or Sanborn with respect
3 to the *Scroggins* action;

4 2. For a judgment that, by reason of the terms, conditions, exclusions and limitations
5 of the Riverport Policies, Riverport has no duty to indemnify and/or to satisfy any judgment that
6 may be rendered against John Stewart or Sanborn in the *Scroggins* action;

7 3. For a judgment that, by reason of the terms, conditions, exclusions and limitations
8 of the Riverport Policies, Riverport has no duty to provide John Stewart or Sanborn with notice
9 of cancellation of the 2008-2009 Riverport Policies;

10 4. For a judgment that, by reason of the terms, conditions, exclusions and limitations
11 of the Riverport Policies, Riverport has no duty to indemnify and/or to satisfy a judgment for
12 damages against OCHI, CaHon, Fowlkes and Hyson in the *Scroggins* action, to the extent such
13 damages fall outside the terms of coverage provided by the Riverport Policies;

14 5. For a judgment that, by reason of the terms, conditions, exclusions and limitations
15 of the Riverport Policies, that Riverport has no duty to indemnify or to pay for the cost of
16 compliance with court orders issued against OCHI, CaHon, Fowlkes and Hyson in the *Scroggins*
17 action, to pay for rent rebates or other restitutionary relief or disgorgement ordered by the court,
18 or to bear the cost of other relief sought by the plaintiffs in the *Scroggins* action which falls
19 outside the terms of coverage provided by the Riverport Policies;

20 6. For a judgment that, by reason of the terms, conditions, exclusions and limitations
21 of the Riverport Policies, that Riverport is entitled to restitution and reimbursement from OCHI,
22 CaHon, Fowlkes, and Hyson for some or all sums expended in defense or settlement or
23 satisfaction of a judgment in the *Scroggins* action;

24 7. On all causes of action, for interest, including prejudgment interest;

25 8. On all causes of action, for costs incurred herein; and

26 9. For such other and further relief as the Court deems just and proper.
27
28

1 DATED: August 13, 2008

SEDGWICK, DETERT, MORAN & ARNOLD LLP

2
3
4 By: 

Bruce D. Celebrezze

Michael A. Topp

Dean J. McElroy

Attorneys for Plaintiff

RIVERPORT INSURANCE COMPANY

7
8 **DEMAND FOR JURY TRIAL**

9 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, plaintiff Riverport Insurance
10 Company hereby demands a jury trial for this action.

11 DATED: August 13, 2008

SEDGWICK, DETERT, MORAN & ARNOLD LLP

12
13
14 By: 

Bruce D. Celebrezze

Michael A. Topp

Dean J. McElroy

Attorneys for Plaintiff

RIVERPORT INSURANCE COMPANY

EXHIBIT A

1 JOHN MURCKO (SBN 47008)
2 2831 Telegraph Avenue
3 Oakland, California 94609
4 Telephone: (510) 465-2241
5 Attorney for Plaintiffs

6 STEPHEN PERELSON (SBN 43032)
7 285 Miller Avenue
8 Mill Valley, California 94941
9 Telephone: (415) 999-5737
10 Attorney for Plaintiffs

ENDORSED
FILED
ALAMEDA COUNTY

JUL - 3 2008

CLERK OF THE SUPERIOR COURT
By _____ Deputy

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 IN AND FOR THE COUNTY OF ALAMEDA

13 ~~LEROY SCROGGINS, JACKIE~~
14 ~~CUMMINGS, RODNEY STENSON,~~
15 ~~PATRICIA WEATHERBY, EDWARD~~
16 ~~DICKENS, JOHN HINES, EDWARD~~
17 ~~DIXON, JEFFREY ROBINSON, LILLIE~~
18 ~~MAE SINGLETON, ARTHUR LEE~~
19 ~~BUNTON, LEROY WILLIAMS,~~
20 ~~ROBERT BELL, JEFFREY ROLIN,~~
21 ~~EDWARD GRIFFIN, BILLY R.~~
22 ~~JOHNSON, MICKEY MARTIN,~~
23 ~~MICHAEL NELSON, TERESA~~
24 ~~JOHNSON, STANLEY LA RUE HUFF,~~
~~FREDERICK HOWARD, LEE V.~~
~~JENKINS, CLARENCE WOODARD,~~
~~BERTHA M. WALKER, HERMAN~~
~~GOLDEN, JR., RONALD PEOPLES,~~
~~GEORGE CLINTON, OTIS~~
~~BLACKSHEER, MITCHELL~~
~~STEPHENS, ANDREW ARAMBURO,~~
~~GEORGE REYNOLDS, KATHERINE~~
~~MARSH, EDGAR HANNA, ROLAN~~
~~GOODRUM, TED DIXON, LAURA~~
~~VALENZUELA, TAMI FORREST,~~
~~ELMORE SHIVERS, JESSE POWELL,~~
~~DUANE ANDERSON, BERNADETTE~~
~~THOMPSON, MAREIO DAVIS,~~
~~GEORGE STRINGER, DAVID~~
~~McQUILLING, PHYLIS McMILLON,~~

Case No.

129 08396398

COMPLAINT FOR INJUNCTION AND DAMAGES

1. Injunction Pursuant to Revenue and Taxation Code 17058 (and Regulatory Agreement)
2. Breach of Warranty of Habitability-Written Contract-Negligence
3. Negligent Maintenance of the Premises
4. Intentional Infliction of Emotional Distress
5. Nuisance-Negligence
6. Violation of Statutory Duty-Intentional
7. Breach of Warranty of Habitability-Intentional
8. Breach of Covenant of Good Faith and Fair Dealing
9. Unfair Business Practice
10. Negligence-Personal Injury
11. Private Nuisance-Intentional
12. Accounting

DALLAS MILLER, JR., MITCHELL
STEWART, GABRIEL JOSEPH
JOHNSON, EUGENE SWANN, JAMES
CUNNINGHAM, ROBIN MENETOE,
TOM BROWN, JEFFREY MONIZ,
YVONNE BROWN,

(Jury Trial Requested)
(Damages for Each Plaintiff
Are In Excess of \$50,000 each)

Plaintiffs,

vs.

OAKLAND COMMUNITY HOUSING,
INC., CAHON ASSOCIATES, JOHN
STEWART COMPANY, CHARLES
FOWLKES, GREG HYSON, LAURA
SANBORN, and DOES I through X
inclusive,

Defendants.

1. Individual Tenant Plaintiffs bring this action for injunction and for damages against Defendants for causing, maintaining and continuing a private nuisance, for breach of Defendants' duty to comply with health, safety, housing and building codes in the operation of residential rental property, their duty to maintain dwelling units in decent, safe and sanitary conditions it for human habitation, for breach of contract, breach of statutory and implied warranty of habitability, negligence, intentional infliction of emotional distress, for breach of the covenant of good faith and fair dealing, for personal injury due to negligence, and for violation of Revenue and Taxation Code Section 17058 and Regulatory Agreement between Cahon Associates and California Tax Credit Allocation Committee (hereafter "CTCAC").

PARTIES

2. Individually named Tenant Plaintiffs are residents of the City of Oakland, County of Alameda, California and were injured in the City of Oakland, County of Alameda,

1 California. The individually named Tenant Plaintiffs are at all times pertinent to this
2 complaint, tenants residing at the property owned, controlled or operated by the Defendants,
3 located at the California Hotel at 3501 San Pablo Avenue, Oakland, California.

4 3. On or about February 1, 2001, Plaintiff Leroy Scoggins entered into a written
5 month-to-month rental agreement with Defendants Oakland Community Housing, Inc., Cahon
6 Associates, Charles Fowlkes and Greg Hyson (hereafter "Owners") and Does I and II as
7 landlord, rented to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #101 in
8 Oakland, California, for rent of Four Hundred Eighty Dollars and No/100 (\$480.00) per month.
9 Plaintiff Scoggins paid rent and performed all other obligations imposed on him by the
10 aforementioned written agreement at all times including during the period February 1, 2001 to
11 the present. Plaintiff made complaints of the defects in unit #101 to the owners and managers;
12 the repairs were not carried out. The managers of the premises were John Steward Company,
13 Laura Sanborn (hereafter "Steward Company") and Does III to X of San Francisco, California.
14 See Exhibit A, Lease. This lease is the same as all other leases of plaintiffs.

15 4. On or about September, 1997, Plaintiff Jackie Cummings entered in a written
16 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
17 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #102 in Oakland,
18 California, for rent of Five Hundred and Thirty-Five Dollars and No/100 (\$535.00) per month.
19 Plaintiff Cummings paid rent and performed all other obligations imposed on her by the
20 aforementioned written agreement at all times including during the period from September,
21 1997 to the present. Plaintiff made complaints of the defects in unit #102 to the owners and
22 managers; the repairs were not carried out. The managers of the premises were the Steward
23 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

1 5. On or about February, 2007, Plaintiffs Rodney Stenson and Patricia Weatherby
2 entered in a written month-to-month rental agreement with Defendant Owners and Does I and
3 II as landlord, rented to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue
4 #103 in Oakland, California, for equivalent rent of Six Hundred Dollars and No/100 (\$600.00)
5 per month. Plaintiffs Stenson and Weatherby paid rent and performed all other obligations
6 imposed on them by the aforementioned written agreement at all times including during the
7 period from February, 2007 to the present. Plaintiffs made complaints of the defects in unit
8 #203 to the owners and managers; the repairs were not carried out. The managers of the
9 premises were the Steward Company and Does III to X of San Francisco, California.

10 6. On or about June 1, 2003, Plaintiff Edward Dickens entered in a written month-
11 to-month rental agreement with Defendant Owners and Does I and II as landlord, rented to
12 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #211 in Oakland,
13 California, for rent of Five Hundred and Seven Dollars and No/100 (\$407.00) per month.
14 Plaintiff Dickens paid rent and performed all other obligations imposed on him by the
15 aforementioned written agreement at all times including during the period from June 1, 2003 to
16 the present. Plaintiff made complaints of the defects in unit #211 to the owners and managers;
17 the repairs were not carried out. The managers of the premises were the Steward Company and
18 Does III to X of San Francisco, California. See Exhibit A, Lease.

19 7. On or about February 1, 2004, Plaintiff Edward Dixon entered in a written
20 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
21 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #214 in Oakland,
22 California, for rent of Four Hundred Ninety-Eight Dollars and No/100 (\$498.00) per month.
23 Plaintiff Dixon paid rent and performed all other obligations imposed on him by the
24

1 aforementioned written agreement at all times including during the period from February 1,
2 2004 to the present. Plaintiff made complaints of the defects in unit #214 to the owners and
3 managers; the repairs were not carried out. The managers of the premises were the Steward
4 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

5 8. On or about February 1, 2000, Plaintiff Jeffrey Robinson entered in a written
6 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
7 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #223 in Oakland,
8 California, for rent of Five Hundred Dollars and No/100 (\$500.00) per month. Plaintiff
9 Robinson paid rent and performed all other obligations imposed on him by the aforementioned
10 written agreement at all times including during the period from February 1, 2000 to the present.
11 Plaintiff made complaints of the defects in unit #223 to the owners and managers; the repairs
12 were not carried out. The managers of the premises were the Steward Company and Does III to
13 X of San Francisco, California. See Exhibit A, Lease.

14 9. On or about March 1, 1993, Plaintiff Lillie Mae Singleton entered in a written
15 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
16 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #225 in Oakland,
17 California, for rent of Four Hundred Eighty Dollars and No/100 (\$480.00) per month. Plaintiff
18 Singleton paid rent and performed all other obligations imposed on her by the aforementioned
19 written agreement at all times including during the period from March 1, 1993 to the present.
20 Plaintiff made complaints of the defects in unit #225 to the owners and managers; the repairs
21 were not carried out. The managers of the premises were the Steward Company and Does III to
22 X of San Francisco, California. See Exhibit A, Lease.

1 10. On or about 1995, Plaintiff Arthur Lee Bunton entered in a written month-to-
2 month rental agreement with Defendant Owners and Does I and II as landlord, rented to
3 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #235 in Oakland,
4 California, for rent of Four Hundred Ninety-Eight Dollars and No/100 (\$498.00) per month.
5 Plaintiff Bunton paid rent and performed all other obligations imposed on him by the
6 aforementioned written agreement at all times including during the period from 1995 to the
7 present. Plaintiff made complaints of the defects in unit #235 to the owners and managers; the
8 repairs were not carried out. The managers of the premises were the Steward Company and
9 Does III to X of San Francisco, California. See Exhibit A, Lease.

10 11. On or about February, 1984, Plaintiff Leroy Williams entered in a written
11 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
12 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #236 in Oakland,
13 California, for rent of Two Hundred Seventy-Nine Dollars and No/100 (\$279.00) per month.
14 Plaintiff Williams paid rent and performed all other obligations imposed on him by the
15 aforementioned written agreement at all times including during the period from February, 1984
16 to the present. Plaintiff made complaints of the defects in unit #236 to the owners and
17 managers; the repairs were not carried out. The managers of the premises were the Steward
18 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

19 12. On or about January, 1997, Plaintiff John Hines entered in a written month-to-
20 month rental agreement with Defendant Owners and Does I and II as landlord, rented to
21 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #217 in Oakland,
22 California, for rent of Four Hundred Fifty-Four Dollars and No/100 (\$454.00) per month.
23 Plaintiff Cummings paid rent and performed all other obligations imposed on him by the
24

1 aforementioned written agreement at all times including during the period from January, 1997
2 to the present. Plaintiff made complaints of the defects in unit #217 to the owners and
3 managers; the repairs were not carried out. The managers of the premises were the Steward
4 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

5 13. On or about August 1, 2005, Plaintiff Robert Bell entered in a written month-to-
6 month rental agreement with Defendant Owners and Does I and II as landlord, rented to
7 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #237 in Oakland,
8 California, for rent of Two Hundred Twenty-One Dollars and No/100 (\$221.00) per month.
9 Plaintiff Bell paid rent and performed all other obligations imposed on him by the
10 aforementioned written agreement at all times including during the period from August 1, 2005
11 to the present. Plaintiff made complaints of the defects in unit #237 to the owners and
12 managers; the repairs were not carried out. The managers of the premises were the Steward
13 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

14 14. On or about July, 2006, Plaintiff Edward Griffin entered in a written month-to-
15 month rental agreement with Defendant Owners and Does I and II as landlord, rented to
16 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #302 in Oakland,
17 California, for rent of Four Hundred Eighty Dollars and No/100 (\$480.00) per month. Plaintiff
18 Griffin paid rent and performed all other obligations imposed on him by the aforementioned
19 written agreement at all times including during the period from July, 2006 to the present.
20 Plaintiff made complaints of the defects in unit #302 to the owners and managers; the repairs
21 were not carried out. The managers of the premises were the Steward Company and Does III to
22 X of San Francisco, California. See Exhibit A, Lease.

1 15. On or about February, 1991, Plaintiff Billy Johnson entered in a written month-
2 to-month rental agreement with Defendant Owners and Does I and II as landlord, rented to
3 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #307 in Oakland,
4 California, for rent of Four Hundred Ninety-Eight Dollars and No/100 (\$498.00) per month.
5 Plaintiff Johnson paid rent and performed all other obligations imposed on him by the
6 aforementioned written agreement at all times including during the period from February, 1991
7 to the present. Plaintiff made complaints of the defects in unit #307 to the owners and
8 managers; the repairs were not carried out. The managers of the premises were the Steward
9 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

10 16. On or about August, 1993, Plaintiff Mickey Martin entered in a written month-
11 to-month rental agreement with Defendant Owners and Does I and II as landlord, rented to
12 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #311 in Oakland,
13 California, for rent of Four Hundred Twenty-Two Dollars and No/100 (\$422.00) per month.
14 Plaintiff Martin paid rent and performed all other obligations imposed on him by the
15 aforementioned written agreement at all times including during the period from August, 1993
16 to the present. Plaintiff made complaints of the defects in unit #311 to the owners and
17 managers; the repairs were not carried out. The managers of the premises were the Steward
18 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

19 17. On or about September, 2004, Plaintiff Michael Nelson entered in a written
20 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
21 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #312 in Oakland,
22 California, for rent of Four Hundred Ninety Dollars and No/100 (\$490.00) per month. Plaintiff
23 Nelson paid rent and performed all other obligations imposed on him by the aforementioned
24

1 written agreement at all times including during the period from September, 2004 to the present.
2 Plaintiff made complaints of the defects in unit #312 to the owners and managers; the repairs
3 were not carried out. The managers of the premises were the Steward Company and Does III to
4 X of San Francisco, California. See Exhibit A, Lease.

5 18. On or about September, 2004, Plaintiff Teresa Johnson entered in a written
6 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
7 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #318 in Oakland,
8 California, for rent of Four Hundred Ninety-Eight Dollars and No/100 (\$498.00) per month.
9 Plaintiff Johnson paid rent and performed all other obligations imposed on her by the
10 aforementioned written agreement at all times including during the period from September,
11 2004 to the present. Plaintiff made complaints of the defects in unit #318 to the owners and
12 managers; the repairs were not carried out. The managers of the premises were the Steward
13 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

14 19. On or about September, 2001, Plaintiff Stanley Le Rue Huff entered in a written
15 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
16 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #320 in Oakland,
17 California, for rent of Four Hundred Twenty Dollars and No/100 (\$420.00) per month.
18 Plaintiff Griffin paid rent and performed all other obligations imposed on him by the
19 aforementioned written agreement at all times including during the period from September,
20 2001 to the present. Plaintiff made complaints of the defects in unit #320 to the owners and
21 managers; the repairs were not carried out. The managers of the premises were the Steward
22 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

1 20. On or about April, 2003, Plaintiff Frederick Howard entered in a written month-
2 to-month rental agreement with Defendant Owners and Does I and II as landlord, rented to
3 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #322 in Oakland,
4 California, for rent of Four Hundred Ninety-Eight Dollars and No/100 (\$498.00) per month.
5 Plaintiff Howard paid rent and performed all other obligations imposed on him by the
6 aforementioned written agreement at all times including during the period from April, 2003 to
7 the present. Plaintiff made complaints of the defects in unit #322 to the owners and managers;
8 the repairs were not carried out. The managers of the premises were the Steward Company and
9 Does III to X of San Francisco, California. See Exhibit A, Lease.

10 21. On or about February, 1993, Plaintiff Lee V. Jenkins entered in a written
11 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
12 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #325 in Oakland,
13 California, for rent of Four Hundred Ninety-Eight Dollars and No/100 (\$498.00) per month.
14 Plaintiff Jenkins paid rent and performed all other obligations imposed on him by the
15 aforementioned written agreement at all times including during the period from February, 1993
16 to the present. Plaintiff made complaints of the defects in unit #325 to the owners and
17 managers; the repairs were not carried out. The managers of the premises were the Steward
18 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

19 22. On or about January, 2007, Plaintiff Clarence Woodward entered in a written
20 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
21 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #327 in Oakland,
22 California, for rent of Four Hundred Twenty-Two Dollars and No/100 (\$422.00) per month.
23 Plaintiff Woodward paid rent and performed all other obligations imposed on him by the
24

1 aforementioned written agreement at all times including during the period from January, 2007
2 to the present. Plaintiff made complaints of the defects in unit #327 to the owners and
3 managers; the repairs were not carried out. The managers of the premises were the Steward
4 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

5 23. On or about February, 2003, Plaintiff Bertha Walker entered in a written month-
6 to-month rental agreement with Defendant Owners and Does I and II as landlord, rented to
7 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #328 in Oakland,
8 California, for rent of Four Hundred Ninety-Seven Dollars and No/100 (\$497.00) per month.
9 Plaintiff Walker paid rent and performed all other obligations imposed on her by the
10 aforementioned written agreement at all times including during the period from February, 2003
11 to the present. Plaintiff made complaints of the defects in unit #328 to the owners and
12 managers; the repairs were not carried out. The managers of the premises were the Steward
13 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

14 24. On or about March, 2003, Plaintiff Herman Golden, Jr. entered in a written
15 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
16 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #329 in Oakland,
17 California, for rent of Four Hundred Twenty-Two Dollars and No/100 (\$422.00) per month.
18 Plaintiff Golden paid rent and performed all other obligations imposed on him by the
19 aforementioned written agreement at all times including during the period from March, 2003 to
20 the present. Plaintiff made complaints of the defects in unit #329 to the owners and managers;
21 the repairs were not carried out. The managers of the premises were the Steward Company and
22 Does III to X of San Francisco, California. See Exhibit A, Lease.

1 25. On or about August, 1996, Plaintiff Ronald Peoples entered in a written month-
2 to-month rental agreement with Defendant Owners and Does I and II as landlord, rented to
3 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #336 in Oakland,
4 California, for rent of Six Hundred Fifty Dollars and No/100 (\$650.00) per month. Plaintiff
5 Peoples paid rent and performed all other obligations imposed on him by the aforementioned
6 written agreement at all times including during the period from August, 1996 to the present.
7 Plaintiff made complaints of the defects in unit #336 to the owners and managers; the repairs
8 were not carried out. The managers of the premises were the Steward Company and Does III to
9 X of San Francisco, California. See Exhibit A, Lease.

10 26. On or about January, 1996, Plaintiff George Clinton entered in a written month-
11 to-month rental agreement with Defendant Owners and Does I and II as landlord, rented to
12 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #401 in Oakland,
13 California, for rent of Seven Hundred Dollars and No/100 (\$700.00) per month. Plaintiff
14 Clinton paid rent and performed all other obligations imposed on him by the aforementioned
15 written agreement at all times including during the period from January, 1996 to the present.
16 Plaintiff made complaints of the defects in unit #401 to the owners and managers; the repairs
17 were not carried out. The managers of the premises were the Steward Company and Does III to
18 X of San Francisco, California. See Exhibit A, Lease.

19 27. On or about August 3, 2006, Plaintiff Otis Blacksheer entered in a written
20 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
21 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #404 in Oakland,
22 California, for rent of Four Hundred Seven Dollars and No/100 (\$407.00) per month. Plaintiff
23 Blacksheer paid rent and performed all other obligations imposed on him by the
24

1 aforementioned written agreement at all times including during the period from August 3, 2006
2 to the present. Plaintiff made complaints of the defects in unit #404 to the owners and
3 managers; the repairs were not carried out. The managers of the premises were the Steward
4 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

5 28. On or about June, 2003, Plaintiff Mitchell Stephens entered in a written month-
6 to-month rental agreement with Defendant Owners and Does I and II as landlord, rented to
7 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #411 in Oakland,
8 California, for rent of Four Hundred Twenty-Two Dollars and No/100 (\$422.00) per month.
9 Plaintiff Stevens paid rent and performed all other obligations imposed on him by the
10 aforementioned written agreement at all times including during the period from June, 2003 to
11 the present. Plaintiff made complaints of the defects in unit #411 to the owners and managers;
12 the repairs were not carried out. The managers of the premises were the Steward Company and
13 Does III to X of San Francisco, California. See Exhibit A, Lease.

14 29. On or about July, 2000, Plaintiff Andrew Aramburo entered in a written month-
15 to-month rental agreement with Defendant Owners and Does I and II as landlord, rented to
16 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #417 in Oakland,
17 California, for rent of Five Hundred Twenty-Two Dollars and No/100 (\$500.00) per month.
18 Plaintiff Aramburo paid rent and performed all other obligations imposed on him by the
19 aforementioned written agreement at all times including during the period from July, 2000 to
20 the present. Plaintiff made complaints of the defects in unit #417 to the owners and managers;
21 the repairs were not carried out. The managers of the premises were the Steward Company and
22 Does III to X of San Francisco, California. See Exhibit A, Lease.

1 30. On or about October, 2006, Plaintiff George Reynolds entered in a written
2 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
3 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #419 in Oakland,
4 California, for rent of Four Hundred Eighty Dollars and No/100 (\$480.00) per month. Plaintiff
5 Reynolds paid rent and performed all other obligations imposed on him by the aforementioned
6 written agreement at all times including during the period from October, 2006 to the present.
7 Plaintiff made complaints of the defects in unit #419 to the owners and managers; the repairs
8 were not carried out. The managers of the premises were the Steward Company and Does III to
9 X of San Francisco, California. See Exhibit A, Lease.

10 31. On or about February, 2006, Plaintiff Katherine Marsh entered in a written
11 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
12 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #422 in Oakland,
13 California, for rent of Four Hundred Eighty Dollars and No/100 (\$480.00) per month. Plaintiff
14 Marsh paid rent and performed all other obligations imposed on him by the aforementioned
15 written agreement at all times including during the period from February, 2006 to the present.
16 Plaintiff made complaints of the defects in unit #422 to the owners and managers; the repairs
17 were not carried out. The managers of the premises were the Steward Company and Does III to
18 X of San Francisco, California. See Exhibit A, Lease.

19 32. On or about October 1, 2006, Plaintiff Laura Valenzuela entered in a written
20 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
21 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #435 in Oakland,
22 California, for rent of Four Hundred Eighty Dollars and No/100 (\$480.00) per month. Plaintiff
23 Valenzuela paid rent and performed all other obligations imposed on her by the
24

1 aforementioned written agreement at all times including during the period from October 1,
2 2006 to the present. Plaintiff made complaints of the defects in unit #435 to the owners and
3 managers; the repairs were not carried out. The managers of the premises were the Steward
4 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

5 33. On or about January, 2003, Plaintiff Edgar Hanna entered in a written month-to-
6 month rental agreement with Defendant Owners and Does I and II as landlord, rented to
7 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #427 in Oakland,
8 California, for rent of Four Hundred Twenty-Five Dollars and No/100 (\$425.00) per month.
9 Plaintiff Hanna paid rent and performed all other obligations imposed on him by the
10 aforementioned written agreement at all times including during the period from January, 2003
11 to the present. Plaintiff made complaints of the defects in unit #427 to the owners and
12 managers; the repairs were not carried out. The managers of the premises were the Steward
13 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

14 34. On or about March, 1997, Plaintiff Noland Goodrum entered in a written
15 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
16 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #429 in Oakland,
17 California, for rent of Four Hundred Twenty Dollars and No/100 (\$420.00) per month.
18 Plaintiff Goodrum paid rent and performed all other obligations imposed on him by the
19 aforementioned written agreement at all times including during the period from March, 1997 to
20 the present. Plaintiff made complaints of the defects in unit #429 to the owners and managers;
21 the repairs were not carried out. The managers of the premises were the Steward Company and
22 Does III to X of San Francisco, California. See Exhibit A, Lease.

1 35. On or about May 1, 2004, Plaintiff Ted Dixon entered in a written month-to-
2 month rental agreement with Defendant Owners and Does I and II as landlord, rented to
3 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #433 in Oakland,
4 California, for rent of Four Hundred Twenty Dollars and No/100 (\$420.00) per month.
5 Plaintiff Dixon paid rent and performed all other obligations imposed on him by the
6 aforementioned written agreement at all times including during the period from May 1, 2004 to
7 the present. Plaintiff made complaints of the defects in unit #433 to the owners and managers;
8 the repairs were not carried out. The managers of the premises were the Steward Company and
9 Does III to X of San Francisco, California. See Exhibit A, Lease.

10 36. On or about November, 2004, Plaintiffs Tami Forrest and Elmore Shivaro
11 entered in a written month-to-month rental agreement with Defendant Owners and Does I and
12 II as landlord, rented to Plaintiffs, as tenant, an apartment located at 3501 San Pablo Avenue
13 #437 in Oakland, California, for rent of Six Hundred Seventy Dollars and No/100 (\$670.00)
14 per month. Plaintiffs Forrest and Shivaro paid rent and performed all other obligations
15 imposed on him by the aforementioned written agreement at all times including during the
16 period from November, 2004 to the present. Plaintiffs made complaints of the defects in unit
17 #437 to the owners and managers; the repairs were not carried out. The managers of the
18 premises were the Steward Company and Does III to X of San Francisco, California. See
19 Exhibit A, Lease.

20 37. On or about December, 2002, Plaintiff Jesse Powell entered in a written month-
21 to-month rental agreement with Defendant Owners and Does I and II as landlord, rented to
22 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #438 in Oakland,
23 California, for rent of Six Hundred Forty-Five Dollars and No/100 (\$645.00) per month.
24

1 Plaintiff Powell paid rent and performed all other obligations imposed on him by the
2 aforementioned written agreement at all times including during the period from December,
3 2002 to the present. Plaintiff made complaints of the defects in unit #438 to the owners and
4 managers; the repairs were not carried out. The managers of the premises were the Steward
5 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

6 38. On or about January 5, 2006, Plaintiff Duane Anderson entered in a written
7 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
8 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #501 in Oakland,
9 California, for rent of Six Hundred Forty-Six Dollars and No/100 (\$646.00) per month.

10 Plaintiff Stevens paid rent and performed all other obligations imposed on him by the
11 aforementioned written agreement at all times including during the period from January 5,
12 2006 to the present. Plaintiff made complaints of the defects in unit #501 to the owners and
13 managers; the repairs were not carried out. The managers of the premises were the Steward
14 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

15 39. On or about January, 1999, Plaintiff Bernadette Thompson entered in a written
16 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
17 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #502 in Oakland,
18 California, for rent of Four Hundred Ninety-Eight Dollars and No/100 (\$498.00) per month.

19 Plaintiff Thompson paid rent and performed all other obligations imposed on her by the
20 aforementioned written agreement at all times including during the period from January, 1999
21 to the present. Plaintiff made complaints of the defects in unit #501 to the owners and
22 managers; the repairs were not carried out. The managers of the premises were the Steward
23 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

1 40. On or about December, 2006, Plaintiff Mareio Davis entered in a written
2 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
3 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #504 in Oakland,
4 California, for rent of Four Hundred Seven Dollars and No/100 (\$407.00) per month. Plaintiff
5 Davis paid rent and performed all other obligations imposed on him by the aforementioned
6 written agreement at all times including during the period from December, 2006 to the present.
7 Plaintiff made complaints of the defects in unit #504 to the owners and managers; the repairs
8 were not carried out. The managers of the premises were the Steward Company and Does III to
9 X of San Francisco, California. See Exhibit A, Lease.

10 41. On or about May, 2004, Plaintiff George Stringer entered in a written month-to-
11 month rental agreement with Defendant Owners and Does I and II as landlord, rented to
12 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #510 in Oakland,
13 California, for rent of Four Hundred Eighty Dollars and No/100 (\$480.00) per month. Plaintiff
14 Stringer paid rent and performed all other obligations imposed on him by the aforementioned
15 written agreement at all times including during the period from May, 2004 to the present.
16 Plaintiff made complaints of the defects in unit #510 to the owners and managers; the repairs
17 were not carried out. The managers of the premises were the Steward Company and Does III to
18 X of San Francisco, California. See Exhibit A, Lease.

19 42. On or about February, 2005, Plaintiff David McQuilling entered in a written
20 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
21 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #515 in Oakland,
22 California, for rent of Four Hundred Twenty-Two Dollars and No/100 (\$422.00) per month.
23 Plaintiff McQuilling paid rent and performed all other obligations imposed on him by the
24

1 aforementioned written agreement at all times including during the period from February, 2005
2 to the present. Plaintiff made complaints of the defects in unit #515 to the owners and
3 managers; the repairs were not carried out. The managers of the premises were the Steward
4 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

5 43. On or about July 1, 2005, Plaintiff Phylis McMillon entered in a written month-
6 to-month rental agreement with Defendant Owners and Does I and II as landlord, rented to
7 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #516 in Oakland,
8 California, for rent of Four Hundred Ninety-Eight Dollars and No/100 (\$498.00) per month.
9 Plaintiff McMillon paid rent and performed all other obligations imposed on her by the
10 aforementioned written agreement at all times including during the period from July 1, 2005 to
11 the present. Plaintiff made complaints of the defects in unit #516 to the owners and managers;
12 the repairs were not carried out. The managers of the premises were the Steward Company and
13 Does III to X of San Francisco, California. See Exhibit A, Lease.

14 44. On or about September, 2000, Plaintiff David McQuilling entered in a written
15 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
16 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #517 in Oakland,
17 California, for rent of Five Hundred Ninety-Two Dollars and No/100 (\$592.00) per month.
18 Plaintiff Miller paid rent and performed all other obligations imposed on him by the
19 aforementioned written agreement at all times including during the period from September,
20 2000 to the present. Plaintiff made complaints of the defects in unit #517 to the owners and
21 managers; the repairs were not carried out. The managers of the premises were the Steward
22 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

1 45. On or about April, 2006, Plaintiff Mitchell Stewart entered in a written month-
2 to-month rental agreement with Defendant Owners and Does I and II as landlord, rented to
3 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #518 in Oakland,
4 California, for rent of Four Hundred Eighty Dollars and No/100 (\$480.00) per month. Plaintiff
5 Stewart paid rent and performed all other obligations imposed on him by the aforementioned
6 written agreement at all times including during the period from April, 2006 to the present.
7 Plaintiff made complaints of the defects in unit #518 to the owners and managers; the repairs
8 were not carried out. The managers of the premises were the Steward Company and Does III to
9 X of San Francisco, California. See Exhibit A, Lease.

10 46. On or about April, 2006, Plaintiff Gabriel Joseph Johnson entered in a written
11 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
12 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #521 in Oakland,
13 California, for rent of Four Hundred Eighty Dollars and No/100 (\$480.00) per month. Plaintiff
14 Johnson paid rent and performed all other obligations imposed on her by the aforementioned
15 written agreement at all times including during the period from April, 2006 to the present.
16 Plaintiff made complaints of the defects in unit #521 to the owners and managers; the repairs
17 were not carried out. The managers of the premises were the Steward Company and Does III to
18 X of San Francisco, California. See Exhibit A, Lease.

19 47. On or about October, 2002, Eugene Swann entered in a written month-to-month
20 rental agreement with Defendant Owners and Does I and II as landlord, rented to Plaintiff, as
21 tenant, an apartment located at 3501 San Pablo Avenue #523 in Oakland, California, for rent of
22 Six Hundred Seventy-Three Dollars and No/100 (\$673.00) per month. Plaintiff Swann paid rent
23 and performed all other obligations imposed on him by the aforementioned written agreement
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1 at all times including during the period from October, 2002 to the present. Plaintiff made
2 complaints of the defects in unit #523 to the owners and managers; the repairs were not carried
3 out. The managers of the premises were the Steward Company and Does III to X of San
4 Francisco, California. See Exhibit A, Lease.

5 48. On or about May, 2003, Plaintiff Tom Brown entered in a written month-to-
6 month rental agreement with Defendant Owners and Does I and II as landlord, rented to
7 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #533 in Oakland,
8 California, for rent of Four Hundred Twenty-Two Dollars and No/100 (\$422.00) per month.
9 Plaintiff Brown paid rent and performed all other obligations imposed on him by the
10 aforementioned written agreement at all times including during the period from May, 2003 to
11 the present. Plaintiff made complaints of the defects in unit #533 to the owners and managers;
12 the repairs were not carried out. The managers of the premises were the Steward Company and
13 Does III to X of San Francisco, California. See Exhibit A, Lease.

14 49. On or about January 1, 2007, Plaintiff Jeffrey Moniz entered in a written month-
15 to-month rental agreement with Defendant Owners and Does I and II as landlord, rented to
16 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #535 in Oakland,
17 California, for rent of Four Hundred Eighty Dollars and No/100 (\$480.00) per month. Plaintiff
18 Moniz paid rent and performed all other obligations imposed on him by the aforementioned
19 written agreement at all times including during the period from January 1, 2007 to the present.
20 Plaintiff made complaints of the defects in unit #535 to the owners and managers; the repairs
21 were not carried out. The managers of the premises were the Steward Company and Does III to
22 X of San Francisco, California. See Exhibit A, Lease.

1 50. On or about December, 2004, Plaintiff James Cunningham entered in a written
2 month-to-month rental agreement with Defendant Owners and Does I and II as landlord, rented
3 to Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #537 in Oakland,
4 California, for rent of Six Hundred Forty-Five Dollars and No/100 (\$645.00) per month.
5 Plaintiff Cunningham paid rent and performed all other obligations imposed on him by the
6 aforementioned written agreement at all times including during the period from December,
7 2004 to the present. Plaintiff made complaints of the defects in unit #537 to the owners and
8 managers; the repairs were not carried out. The managers of the premises were the Steward
9 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

10 51. On or about October, 2006, Plaintiff Robin Menetee entered in a written month-
11 to-month rental agreement with Defendant Owners and Does I and II as landlord, rented to
12 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #537 in Oakland,
13 California, for rent of Six Hundred Forty-Five Dollars and No/100 (\$645.00) per month.
14 Plaintiff Menetee paid rent and performed all other obligations imposed on her by the
15 aforementioned written agreement at all times including during the period from October, 2006
16 to the present. Plaintiff made complaints of the defects in unit #537 to the owners and
17 managers; the repairs were not carried out. The managers of the premises were the Steward
18 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

19 52. On or about May 1, 2001, Plaintiff Yvonne Brown entered in a written month-
20 to-month rental agreement with Defendant Owners and Does I and II as landlord, rented to
21 Plaintiff, as tenant, an apartment located at 3501 San Pablo Avenue #602/501 in Oakland,
22 California, for rent of Four Hundred Ninety-Eight Dollars and No/100 (\$498.00) per month.
23 Plaintiff Brown paid rent and performed all other obligations imposed on her by the
24

1 aforementioned written agreement at all times including during the period from May 1, 2001 to
2 the present. Plaintiff made complaints of the defects in unit #602/501 to the owners and
3 managers; the repairs were not carried out. The managers of the premises were the Steward
4 Company and Does III to X of San Francisco, California. See Exhibit A, Lease.

5 53. Plaintiffs are informed and believe, and thereupon allege, that at all times
6 relevant hereto Defendant Owners and Does I and II have their principal place of business in
7 the City of Oakland. Defendant Owners and Does I and II are the owners of the apartment
8 building at 3501 San Pablo Avenue, Oakland, California. All decisions concerning the
9 condition of the apartments are under their control and power from 2005 to 2008. Defendants
10 Steward Company and Does III through X were the managers of the apartments at 3501 San
11 Pablo Avenue, Oakland, California at all times during the period from 2007 to 2008. All
12 conditions at the premises in questions are and have been under Defendants' control and power
13 at all times including during the period January 1, 2007 to the present.

14 54. At all times material herein, Defendants have conspired to allow the apartments
15 at 3501 San Pablo Avenue, Oakland, California to deteriorate to such an extent that they are
16 and remain uninhabitable, for the purpose of extracting rental monies while avoiding
17 enforcement of the health, safety, and housing laws, and have conspired to allow the
18 maintenance of a public nuisance.

19 55. The true identities and capacities of Defendants DOES I through X, inclusive,
20 are unknown to Plaintiffs at this time, who will file an amendment to this Complaint when the
21 same are ascertained. Plaintiffs are informed and believe, and there upon allege, that each
22 DOE Defendant is responsible for the acts and conditions complained of herein.

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1 Codes from 2005 to the present. This complex is under the control of all Defendants at all
2 times including during the period January 1, 2005 to the present.

3 **VENUE**

4 62. Pursuant to Code of Civil Procedure Sections 395 and 395.5, venue is proper in
5 the Alameda County Judicial District, Oakland because that is the District in which Plaintiffs'
6 injuries occurred, where some or all of the Defendants reside, and where Defendant Owners'
7 principal place of business is located.

8 **COMMON ALLEGATIONS OF FACT AS TO**
9 **THE HISTORY OF THE CALIFORNIA HOTEL**

10 63. On April 1, 1989, Defendants Cahon Associates and Greg Hyson (hereafter
11 "Cahon, Hyson") signed a Regulatory Agreement (hereafter "Agreement") with Ronnie Chue
12 of The California Tax Credit Allocation Committee (CTCAC) pursuant to Sections 17058 and
13 23610.5 of the Revenue and Taxation Code of the State of California (hereafter "R&TC") that
14 Defendants Cahon, Hyson would operate low-income housing at the California Hotel, 3501
15 San Pablo Avenue, Oakland, California for the compliance period of thirty (30) years. See
16 Exhibit B, Regulatory Agreement, Section Two, incorporated by reference as though fully set
17 forth.

18 64. The Project was a 150 unit multi-family dwelling to be operated by Defendants
19 Cahon, Hyson beginning on December 31, 1989 until December 31, 2019. Defendants Cahon,
20 Hyson were given a tax credit in excess of Seven Million Dollars (\$7,000,000) pursuant to the
21 Agreement.

22 65. The Agreement provides that all units be low-income units occupied by low-
23 income tenants and that the rent be restricted to low income with respect to any tenant or
24 income level that does not exceed sixty percent (60%) of the Area Median Gross Income under

1 Section 142(d)(2)(3) of the Internal Revenue Code. See Exhibit B, Regulatory Agreement,
2 Section One.

3 66. Under the Agreement, the Owners are required to maintain the project as a
4 qualified low-income Housing Project for the entire compliance period of thirty (30) years,
5 beginning not later than the close of the first year of the credit period. See Exhibit B,
6 Regulatory Agreement, Section Four.

7 67. Under the Agreement, the Owners are required to hold all units in the Project
8 continually open for rental purposes during the compliance period and take affirmative steps to
9 seek qualified tenants. See Exhibit B, Regulatory Agreement, Section Six.

10 68. Under the Agreement, if after the first eighteen (18) years of the compliance
11 period, the project is not economically feasible, the Owners shall be entitled to reduce the
12 minimum low-income units, one or more as is necessary for the project to become
13 economically feasible. See Exhibit B, Regulatory Agreement, Section Eight.

14 69. "Economically feasible" means the project revenues exceed or equal the
15 reasonable expense necessary to operate and maintain the project in habitable condition. See
16 Exhibit B, Regulatory Agreement, Section One.

17 70. If the Owners default on their obligations under the Agreement and such default
18 is not corrected within a reasonable time, the remedies of the CTCAC and the tenants include,
19 but are not limited to, the following:

- 20 a. collecting all rents with respect to the Project;
- 21 b. taking possession of the Project and operating the Project in
22 accordance with this Agreement until the Owner is in a position to
23 operate the Project in accordance with this Agreement;
- 24

- c. applying to any court for specific performance;
- d. securing the appointment of a receiver to operate the Project; or
- e. any other relief as may be appropriate.

See Exhibit B, Regulatory Agreement, Section Ten

70. Sections 17058(h)(9) and 23610 of the R&TC provide for the same remedies and enforcement against the Owners as the Agreement.

71. On or about June 1, 2007, there were approximately 150 tenants occupying the premises at the California Hotel and paying an average rent of \$500 per unit. This is a total income of \$75,000 per month. Based on information and belief, the operating expenses for the California Hotel were under \$75,000 per month, including expenses for the managers, security, desk clerks, janitors, maintenance, garbage disposal, electricity and water.

72. On or about June 1, 1995, Oakland Community Housing, Inc. became the operating company for Cahon Associates. Oakland Community Housing, Inc. operated the California Hotel and carried out the management functions with the assistance of Oakland Community Housing Management.

73. In 2007, the John Steward Company took over the management duties for the California Hotel.

74. After June 1, 2007, Defendant Owners, California Community Housing Management and the Steward Company rented available apartments to low-income tenants.

75. On or about the period June 1, 2007 to June 1, 2008, the number of tenants at the California Hotel decreased from 150 to the present 75 tenants. All Plaintiffs are low-income tenants under R&TC Section 17058.

1 76. On or about June 20, 2008, Defendant Owners and the Steward Company
2 notified Plaintiffs and all other tenants that they would stop managing the California Hotel on
3 July 15, 2008. See Exhibit C, Letter of Steward Company incorporated by reference.

4 77. Defendant Owners and the Steward Company have stopped making repairs at
5 the California Hotel.

6 78. At a meeting on June 20, 2008, Defendant Oakland Community Housing, Inc.,
7 notified the tenants that Defendants would remodel the building and sell the new units.

8 79. The effect of this action by Defendants is to abandon the building which houses
9 the California Hotel and to create a public nuisance as well as a private nuisance. Defendants
10 are in violation of the Agreement and R&TC Section 17058.

11 80. The City of Oakland has loaned Defendants in excess of Two Million Dollars
12 (\$2,000,000) to operate the California Hotel between 1995 and 2006.

13 81. Plaintiffs are all low-income persons and will suffer irreparable harm and
14 become homeless if the California Hotel is closed, and they are forced into the street. They
15 have no income except their limited social security of less than Nine Hundred Dollars (\$900)
16 per month. There is very little available housing for this large a number of homeless people in
17 the City of Oakland.

18 82. Plaintiffs seek to have the Court order Defendants to comply with the
19 Agreement and to continue to operate the California Hotel.

20 83. In the alternative, Plaintiffs seek the appointment of a Receiver by the Court to
21 operate the California Hotel under the Agreement and R&TC Section 17058, or to allow the
22 tenants to operate the building at the California Hotel.

23 /////

1 **COMMON ALLEGATIONS OF FACT AS TO**
2 **THE CONDITION OF THE BUILDINGS**

3 84. Defendant Owners, their agents and DOES I through X have maintained the
4 land and apartments at 3501 San Pablo Avenue, Oakland, California in an uninhabitable
5 condition from July 1, 2005 to the present.

6 85. During all times material herein, Tenant Plaintiffs have repeatedly informed
7 Defendants, and/or their agents, employees or successors-in-interest of the deplorable, unsafe,
8 unhealthful and uninhabitable conditions of the apartments at 3501 San Pablo Avenue,
9 Oakland, California and of the need for repairs.

10 86. Defendant Owners and Does I and II have had ample opportunity to correct the
11 substandard and dangerous conditions of the apartments at 3501 San Pablo Avenue, Oakland,
12 California but despite their knowledge of the conditions and the opportunity to correct them,
13 Defendants have willfully failed and refused, and continue willfully to fail and refuse to make
14 the necessary repairs and unless ordered by this Court to do so, will continue willfully to fail
15 and refuse to make repairs necessary to bring the apartments at 3501 San Pablo Avenue,
16 Oakland, California into compliance with the Agreement and applicable building, health,
17 safety codes, regulations, ordinances and laws. Plaintiffs further allege that Defendant Owners
18 and Does I and II are willfully failing and refusing to keep people from using and occupying
19 the apartments at 3501 San Pablo Avenue, Oakland. The relevant laws which Defendant
20 Owners have and continue to violate include the habitability laws and standards contained in
21 the California Civil Code Sections 1941, 1941.1, the California Health and Safety Code
22 Section 17920.3 and the R&TC Section 17058. Defendant Owners and Does I through X, by
23 flouting the law and grossly violating the building, health and safety codes, ordinances,
24

1 regulations and laws as well as the R&TC, have rendered, and will continue to render, the
2 building unsafe, unsanitary, unhealthy and unfit for human habitation.

3 87. The conditions include but are not limited to the following:

- 4 a. smoke detectors missing or not operating;
- 5 b. large amounts of trash and debris behind the building and accumulation
6 of garbage at the bias;
- 7 c. heating system defective in numerous places throughout the buildings,
8 water damage to wall, floors and ceilings;
- 9 d. infestation of vermin, rodents, cockroaches, bedbugs, spiders, fleas, rats,
10 insects, and maintenance of rodent harborage;
- 11 e. inadequate and defective plumbing;
- 12 f. inadequate and defective electrical systems and outlets, exposed wiring;
- 13 g. lack of security for tenants by the allowance of drug dealers and other
14 unauthorized persons to use common areas; and
- 15 h. other substandard, dilapidated, dangerous, unhealthful and uninhabitable
16 conditions.

17 88. At all times material herein, as a consequence of the conduct by Defendant
18 Owners as alleged herein, the building at 3501 San Pablo Avenue, Oakland, California has not
19 been habitable or tenantable, has had no reasonable rental value, and will remain uninhabitable
20 and untenable and without rental value until Defendant Owners correct the uninhabitable
21 conditions.

22 89. As a proximate result of the lack of adequate security as alleged herein,
23 unauthorized persons have been and, unless Defendant Owners are enjoined by this Court, will
24

1 continue to frequent the building at 3501 San Pablo Avenue, Oakland, California and the
2 common areas. Said persons have threatened tenants' security, safety, physical and emotional
3 well-being, and quiet enjoyment of the buildings; the tenants have been and will continue to be
4 subjected to, repeated harassment, intimidation and other offensive and/or criminal conduct by
5 third persons, as well as the threat and risk of such conduct, in the apartment units, the
6 common areas, apartment buildings, all as a result of Defendant Owners' inadequate and lack
7 of security measures.

8 90. Public officers and employees who are responsible for the enforcement of
9 housing, health and safety ordinances, codes, laws and regulations on frequent occasions have
10 notified, in writing, the record owners or agents of the record owners, after complaints by
11 tenants of the building at 3501 San Pablo Avenue, Oakland, California that it is the record
12 owners' obligation to abate the nuisance and repair the substandard conditions.

13 91. The conditions complained of herein were not caused by any act or omission by
14 any Plaintiffs.

15 **FIRST CAUSE OF ACTION**

16 (By All Plaintiffs Against All Defendants)

17 (Violation of Regulatory Agreement and R&TC Section 17058)

18 92. Plaintiffs reallege and incorporate by reference paragraphs 1 through 91,
19 inclusive, as if fully set forth in this paragraph.

20 93. Defendants Cahon, Hyson entered into an agreement with CTCAC to operate
21 the California Hotel at 3501 San Pablo Avenue, Oakland, California as low-income rental
22 housing for thirty (30) years in return for a tax credit of over Seven Million Dollars
23 (\$7,000,000). Later, Defendant Cahon, Hyson adopted the Agreement. See Exhibit B,
24 Regulatory Agreement.

1 94. The Agreement was governed by R&TC Sections 17058 and 23610.5.

2 95. The Agreement and R&TC provide that if Defendants or its assignees default in
3 its obligation under the Agreement, and the default is not cured within a reasonable time, the
4 tenants and/or CTCAC can seek remedies in the Superior Court, including specific
5 performance, taking possession of the Project or seeking the appointment of a Receiver until
6 Defendants are capable of carrying out their obligations.

7 96. Defendants have defaulted in their obligation under the Agreement because,
8 since June, 2007, they are not renting out units as they become vacant, and fifty percent (50%)
9 of the available units are vacant. Since Defendants do not have sufficient funds to pay
10 operating costs, they are abandoning the building on July 15, 2008, and they want all tenants
11 removed from the California Hotel so the units can be remodeled and the property sold as
12 condominiums.

13 97. Tenant Plaintiffs are third-party beneficiaries under the Agreement and R&TC
14 Sections 17058 and 23610.5. They are seeking a Court Order 1) to require Defendants to
15 comply with the Agreement; 2) to have a Trustee appointed to operate the California Hotel; or
16 3) to allow the tenants and their agents to operate the California Hotel.

17 98. Defendants are threatening to remove all management services for the
18 California Hotel in violation of (25 Cal. Code Regs No. 42 . In addition, they plan to
19 abandon the building and force Tenant Plaintiffs out of the California Hotel into the streets of
20 Oakland on July 15, 2008. Plaintiffs will suffer irreparable harm by this action because they
21 will become homeless and will suffer extreme mental and physical harm. All Plaintiffs have
22 physical or mental problems, are under SSI coverage and are unable to locate adequate
23 housing.

1 99. There is no adequate remedy at law because damages cannot compensate for
2 homelessness and suffering the dangers of assault or violence due to living on the streets of
3 Oakland.

4 There is a strong likelihood that Plaintiffs will prevail on a hearing for preliminary injunction
5 because Defendants are in violation of the Agreement and R&TC Section 17058. Plaintiffs are
6 entitled to specific preference, injunction and attorney fees and costs under the Agreement and
7 R&TC Section 17058.

8 **SECOND CAUSE OF ACTION**
9 **(By All Tenant Plaintiffs Against All Defendants)**
 (Breach of Contract and Warranty of Habitability)

10 100. Each Tenant Plaintiff realleges and incorporates by reference paragraphs 1
11 through 91, inclusive, as if fully set forth in this paragraph.

12 101. Each Tenant Plaintiff occupied the building at 3501 San Pablo Avenue,
13 Oakland, California pursuant to a written contract. By renting the premises to Plaintiffs,
14 Defendants implicitly warranted the premises to be habitable and that Plaintiffs could
15 peaceably and quietly have, hold and enjoy the premises for the terms of their tenancies.

16 102. Defendants have breached the implied warranty of habitability and implied
17 covenant of quiet use and enjoyment by operating, maintaining and renting to tenants the
18 residential apartment in an untenable condition and by failing to correct such unlawful
19 conditions so as to make the premises fit for human habitation and by failing to provide
20 adequate security as alleged herein.

21 103. Each Tenant Plaintiff has been damaged by Defendants' conduct in amounts
22 equal to rents due and paid by each Plaintiff during the life of each Plaintiff's tenancy, or in
23 amounts to be proven at trial.

1 104. As a direct and proximate result of Defendants' conduct, each Tenant Plaintiff
2 has suffered and will continue to suffer damage and lost income; all to his or her damage in an
3 amount to be determined at trial but which amount is within the jurisdictional requirements of
4 this Court.

5 105. Plaintiffs are all entitled to special damages for breach of contract including rent
6 rebates and attorney fees.

7 **THIRD CAUSE OF ACTION**

8 (By All Tenant Plaintiffs Against All Defendants)
9 (Negligent Maintenance of 3501 San Pablo Avenue, Oakland, California)

10 106. Each Tenant Plaintiff realleges and incorporates by reference paragraphs 1
11 through 91, inclusive, as if fully set forth in this paragraph.

12 107. At all times herein material, Defendants owed a duty of care under the common
13 law and as specified in Civil Code Section 1714 to exercise due care in the management of
14 their property to avoid foreseeable injury to others. Such due care required Defendants to
15 comply with all building, health, and safety codes and other ordinances, statutes and laws
16 regulating the maintenance and operation of residential housing or other rental units.

17 108. Defendants have breached their common law and statutory duties of due care by
18 negligently and recklessly renting and maintaining the premises as set forth above and as
19 defined by, but not limited to, Civil Code Section 1714 et seq.; negligently and recklessly
20 violating the applicable building, health and safety codes, ordinances, statutes and laws,
21 including but not limited to those specified in paragraph 87 above; negligently failing to
22 correct such unlawful conditions so as to make the premises fit for human habitation.

23 109. As a direct and proximate result of Defendants' conduct, each Tenant Plaintiff
24 has suffered and will continue to suffer temporarily and/or permanently mental stress,

1 emotional distress, discomfort, annoyance, anxiety, physical injuries, illness, pain and
2 suffering, property damage and lost income; all to his or her damage in an amount to be
3 determined at trial but which amount is within the jurisdictional requirements of this Court.

4 **FOURTH CAUSE OF ACTION**
5 (By All Tenant Plaintiffs Against All Defendants)
6 (Intentional Infliction of Emotional Distress)

7 110. Each Tenant Plaintiff realleges and incorporates by reference paragraphs 1
8 through 91, inclusive, as if fully set forth in this paragraph.

9 111. Defendants, and/or their agents and employees, have abused their positions and
10 have acted in an outrageous manner by, *inter alia*: failing and refusing to provide adequate
11 security on the premises; failing to abate a dangerous and unhealthy nuisance; maintaining
12 each Plaintiff's living or other quarters in an unsafe, unhealthy, uninhabitable and untenable
13 condition; refusing to repair said premises in the face of numerous complaints by Plaintiffs;
14 violating health and safety standards, codes, ordinances, regulations and statutes causing
15 damages to the Plaintiffs including emotional harm.

16 112. In committing these acts and omissions, all Defendants knew or should have
17 known that their conduct would result in each Tenant Plaintiff's severe emotional distress, and
18 Defendants' actions and omissions were perpetrated with the intent to inflict severe emotional
19 distress upon each Tenant Plaintiff and/or with reckless disregard for the severe emotional
20 consequences of their acts and omissions, thereby entitling Plaintiffs to punitive damages
21 according to proof at trial.

22 /////

23 /////

24 /////

FIFTH CAUSE OF ACTION
(By All Tenant Plaintiffs Against All Defendants)
(Nuisance – Negligence)

113. Each Tenant Plaintiff realleges and incorporates by reference paragraphs 1 through 91, inclusive, as if fully set forth in this paragraph.

114. The defective conditions in the premises alleged above constituted a nuisance within the meaning of Civil Code Section 3479.

115. Said nuisance affected and specially injured Plaintiffs in that they were deprived of the safe, healthy and comfortable use of the aforesaid premises as their dwelling.

116. Defendants knew or reasonably should have known that Plaintiffs would suffer damage in the form of property destruction and loss, mental stress, physical distress, physical discomfort, and embarrassment, which, in fact, they did suffer.

117. Defendants were required by law to abate such nuisance, but failed to do so. As a direct and proximate result of Defendants' failure, Plaintiffs suffered discomfort and annoyance, all to their special and general damage according to proof.

SIXTH CAUSE OF ACTION
(By All Tenant Plaintiffs Against All Defendants)
(Violation of Statutory Duty – Intentional)

118. Each Tenant Plaintiff realleges and incorporates by reference paragraphs 1 through 91, inclusive, as if fully set forth in this paragraph.

119. The building at 3501 San Pablo Avenue, Oakland, California was and is at all times relevant maintained and utilized in violation of Civil Code Sections 1941 and 1941.1 in that: the buildings have been allowed through neglect and inaction to deteriorate to such an extent that the health and safety of the tenants and public were and are substantially

1 endangered. As a direct and proximate result of the acts of Defendants, and each of them,
2 Plaintiffs have been generally damaged in a sum according to proof at the time of trial.

3 120. Defendants' failure to correct the defective conditions described above was
4 knowing, intentional and willful and was, further, malicious and oppressive and in conscious
5 disregard of the Plaintiffs' rights and, therefore, Plaintiffs are entitled to exemplary and
6 punitive damages according to proof at the time of trial against all Defendants.

7 **SEVENTH CAUSE OF ACTION**

(By All Tenant Plaintiffs Against All Defendants)

8 (Breach of Implied Warranty of Habitability – Intentional Tort)

9 121. Each Tenant Plaintiff realleges and incorporates by reference paragraphs 1
10 through 91, inclusive, as if fully set forth in this paragraph.

11 122. Plaintiffs all had written contracts with the Defendants. The contracts provide
12 for repairs and maintenance by the implied warranty of habitability. Plaintiffs all requested
13 repairs of the defects to the Defendants. Plaintiffs did not receive the repairs to the units that
14 were requested. As a result, Plaintiffs all suffered damages and are entitled to a rent rebate,
15 damages for pest control, and damages for lost clothing, bedding, and furniture and suffered
16 general damages for pain and suffering.

17 123. Defendants failed to correct the defective conditions described hereto in the
18 Plaintiffs' apartments.

19 124. Plaintiffs all suffered general and special damages as a result of the defects in
20 their units.

21 /////

22 /////

23 /////

EIGHTH CAUSE OF ACTION

(By All Tenant Plaintiffs Against All Defendants)
(Breach of Covenant of Good Faith and Fair Dealing)

125. Each Tenant Plaintiff realleges and incorporates by reference paragraphs 1 through 91, inclusive, as if fully set forth in this paragraph.

126. Plaintiffs, at the time of the execution of the parties' rental agreement, were in an unequal bargaining position due to the Plaintiffs' need for acceptable and affordable housing. Additionally, Plaintiffs entered into the rental agreement to secure a place of abode and emotional tranquility and peace of mind in avoiding the need to move from place to place. Defendants did not act in good faith at the time the in the performance of the contract.

127. Defendants and each of them, had a duty not to act unreasonably in breaching the contract.

128. As an actual, direct and proximate result of defendants' conduct, Plaintiffs suffer, all to their damage according to proof.

NINTH CAUSE OF ACTION

(By All Tenant Plaintiffs Against All Defendants)
(Unfair Business Practices, Business & Professions Code
Sections 17000 *et seq.* 17070, 170820)

129. Each Tenant Plaintiff realleges and incorporates by reference paragraphs 1 through 91, inclusive, as if fully set forth in this paragraph.

130. The above-described acts, omissions and practices of Defendants was unfair, dishonest, deceptive, fraudulent and discriminatory practices prohibited by Business & Professions Code Section 17000, *et seq.* and calculated to perpetuate the illegal, uninhabitable conditions of the premises while charging rent and channeling rental funds for the exclusive benefit of Defendants and others, leaving no funds available to make the repairs necessary to render 3501 San Pablo Avenue, Oakland, California habitable.

1 131. Plaintiffs are informed and believe and thereon allege that Defendants
2 committed the above-described acts, omissions and practices for the purpose of injuring
3 Plaintiffs and competitors.

4 132. As a proximate result of the above-described acts, omissions and practices of
5 Defendants, each Plaintiff has incurred general and special damages in an amount within the
6 jurisdiction of this Court and subject to proof at trial.

7 133. Unless Defendants are enjoined from continuing their above-described course
8 of conduct, Tenant Plaintiffs, and, on information and belief, Defendants' competitors and the
9 general public, will suffer irreparable injury in that, among other things, Defendants will
10 continue to obtain an unfair advantage over competitors, continue to frustrate the enforcement
11 of housing laws; and continue to reap large amounts of financial benefit from the buildings'
12 continuing slum character.

13 **TENTH CAUSE OF ACTION**
14 (By All Tenant Plaintiffs Against All Defendants)
(Negligence – Personal Injury)

15 134. Each Tenant Plaintiff realleges and incorporates by reference paragraphs 1
16 through 91, inclusive, as if fully set forth in this paragraph.

17 135. Defendants, by their conduct as alleged herein, negligently and carelessly
18 operated, managed, maintained, owned and/or controlled the subject premises. Defendants
19 created and/or allowed a dangerous condition to exist on said subject property. Defendants
20 knew of said dangerous condition, and did nothing to prevent harm or warn Plaintiffs or any
21 invitees or guests or licencees of said dangerous condition. Defendants had the opportunity
22 and ability to correct the dangerous conditions and failed to do so. One dangerous condition
23 among others was infestation of insects and rodents on the subject property. Plaintiffs suffered
24

1 from bites from bedbugs, spiders, and other insects. As a result of this dangerous condition on
2 the premises, Plaintiffs were marked and scarred among other injuries and damages including
3 medical bills and other damages.

4 **ELEVENTH CAUSE OF ACTION**
5 (By All Tenant Plaintiffs Against All Defendants)
6 (Private Nuisance – Intentional)

7 136. Each Tenant Plaintiff realleges and incorporates by reference paragraphs 1
8 through 91, inclusive, as if fully set forth in this paragraph.

9 137. The building at 3501 San Pablo Avenue, Oakland, California is being
10 maintained and utilized in violation of Civil Code Section 3479, in that Defendants have failed
11 and refused to correct the numerous Building Code violations.

12 138. The aforementioned maintenance of the building at 3501 San Pablo Avenue,
13 Oakland, California by Defendants constitutes a nuisance, within the meaning of Civil Code
14 Section 3479, in that said defective conditions were and are injurious to the health, safety and
15 welfare of the tenants, those people being allowed currently into the building, and at the same
16 time, is indecent and offensive to the senses, and interferes with tenants' comfortable use and
17 enjoyment of the premises. Said nuisance has a deleterious effect and causes injury in
18 particular to the tenants.

19 139. Defendant Owners, their agents and Does I and II have intentionally and
20 willfully failed and refused, and continue to fail and refuse, to abate the conditions rendering
21 the premises a nuisance.

22 140. As a proximate result of the nuisance created by Defendants, individually
23 named Tenant Plaintiffs and those who are occupants of the building at 3501 San Pablo
24

1 Avenue, Oakland, California have sustained injury to their health, offense to their senses and
2 interference with comfortable and quiet use and enjoyment of life and property.

3 141. The individually named Tenant Plaintiffs who are occupants of the building at
4 3501 San Pablo Avenue, Oakland, California are suffering irreparable injury, in that the
5 usefulness and economic value of their property will be substantially diminished, and they are
6 deprived of the comfortable and quiet use and enjoyment of property. Plaintiffs' health and
7 safety will continue to be threatened.

8 142. All Defendants have been notified of the defects and have refused to correct the
9 defects at the California Hotel, 3501 San Pablo Avenue, Oakland, California. Defendants'
10 actions are malicious, intentional and oppressive and lead Plaintiffs to seek punitive damages.

11 **TWELFTH CAUSE OF ACTION**
12 (By All Tenant Plaintiffs Against All Defendants)
(For Accounting)

13 143. Each Tenant Plaintiff realleges and incorporates by reference paragraphs 1
14 through 91, inclusive, as if fully set forth in this paragraph.

15 144. On or about April 1, 1989, Defendants Cahon and Hyson entered into the
16 Agreement to provide low-income housing for residents of Oakland, California and to operate
17 the California Hotel, 3501 San Pablo Avenue, Oakland, California as a very low-income
18 residence for very low-income tenants for thirty (30) years.

19 145. Tenant Plaintiffs are third party beneficiaries of the Agreement and are seeking
20 to enforce the Agreement made by Defendants Cahon, Hyson.

21 146. In 1996, Oakland Community Housing, Inc. became the agent of Cahon
22 Associates for the California Hotel. Defendants' obligations under the Agreement are to
23
24

1 provide low-income housing to Tenant Plaintiffs at the California Hotel and to protect the
2 property for the use of the tenants.

3 147. Pursuant to that Agreement, Defendant Owners received over Seven Million
4 Dollars (\$7,000,000) in tax credits for the CTCAC for maintaining and operating the California
5 Hotel from 1989 to 2019. Defendant Owners also received over Two Million Dollars
6 (\$2,000,000) from the City of Oakland as loans to operate the California Hotel for Tenant
7 Plaintiffs. See Exhibit B, Regulatory Agreement.

8 148. On or about June 1, 2007, Defendant Owners stopped entering into new leases
9 to replace move-out tenants at the California Hotel. From 2003 to 2008, Defendant Owners
10 have collected over Four Million Dollars (\$4,000,000) in rent from low-income tenants at the
11 California Hotel.

12 149. On June 20, 200⁸~~7~~, Defendant Owners gave notices to Tenant Plaintiffs that they
13 do not have the funds to operate the California Hotel and will cease operations at 3501 San
14 Pablo Avenue, Oakland, California on July 15, 2008.

15 150. Defendant Owners have received allocations of monies from the State of
16 California; loans from the City of Oakland; and seventeen (17) years of rent monies from low-
17 income tenants at the California Hotel, which total approximately Twenty-Seven Million
18 Dollars (\$27,000,000) to manage and operate the California Hotel for thirty (30) years.

19 151. The amount of money that Defendant Owners have to operate the California
20 Hotel is unknown to Tenant Plaintiffs and cannot be ascertained without an accounting of
21 receipts and expenditures for the California Hotel. This accounting is necessary to ascertain if
22 Defendant Owners are able to continue operating the California Hotel.

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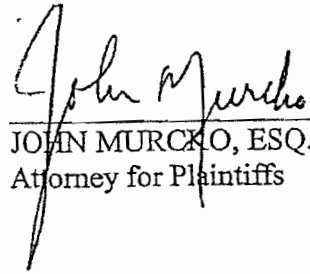
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JOHN MURCKO, ESQ.
Attorney for Plaintiffs

Dated: July , 2008

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LEASE - RE

L AGREEMENT

Agreement, made this 21st day of July

Between and between CAHON - associates ("owner") and

roy Scoggins (Tenant(s)) witnesseth the

ment of the parties that:

EMISES: Owner leases to Tenant and Tenant lease from Owner the
 ses situated in the City of Oakland, County of Alameda, State of California,
 bed as Room Number 214, located at 3501 San Pablo Avenue, and
 as the furnishings and equipment specified in the "Move-In/Out Inspection",
 attached to and made a part of this Agreement.

ME: The term hereof shall commence on 21st July
13 and continue until Jan 31 2009 (6 Months)
 after the term will continue on a month-to-month basis until either
 terminates the same by giving the other party thirty (30) days
 a notice.

IT: Rent shall be 371 per month. Rent is payable in advance
 first day of each calendar month to California Hotel at 3501 San Pablo
 (Rental Office), Oakland, California 94608. Money orders or Cashiers
 should be made out to California Hotel. Cash and personal checks will
 accepted. On the sixth day of the month the rent will be considered delinquent
 30 fee will be charged and the Tenant shall be in breach of this
 rent. In the event of such a breach, the Owner has the option to immediately
 terminate this Agreement per Section 20.

TUPANTS: Premises shall be occupied only by the following named
 a. Tenant must inform management of ANY CHANGES IN OCCUPANCY
 remises.

roy Scoggins

AGE AND SECURITY DEPOSIT: Tenant has deposited with Owner
 of \$ 371 .00 as a security deposit for the full performance and
 nce of each of the provisions in this Agreement. If the Tenant defaults on this
 ent, Owner may retain the whole or any part of the security deposit to defray any
 reasonably incurred by reason of the default, or to pay any sum due to the Owner,
 of the default. At the end of the term of this Agreement, or any extension hereof,
 it is not in default the security deposit shall be returned to Tenant, less reasonable
 is uncurred by Owner to repair any damages to the premises, reasonable wear and
 epted. Should damages exceed the security deposit, Tenant shall be responsible
 tal amount of the damage. Tenant shall not have the right to apply the
 deposit in payment of the last month's rent. The balance of all deposits
 refunded within twenty-one (21) days from the date possession is delivered to Owner or
 authorized agent, together with a statement showing any charges made against such
 by Owner.

IPLE OCCUPANCY: It is expressly understood that this Agreement is between
 d each signatory individually and severally. In the event of default by any one signatory,
 every remaining signatory shall be responsible for timely payment of rent and all other
 s of this Agreement. Residents must report any household changes to the
 vent. Failure to do so may result in eviction procedures.

The premises shall be used as a residence by the undersigned
 with no more than 1 adults and 0 child(ren), and for
 upose, without prior written consent of the Owner. Guests may
 ight for two (2) nights per calendar week, with prior written consent
 ager and pay a \$7.50 per night surcharge.

8. UTILITIES: All utilities are paid by Landlord. Telephone and Cable
 service is not included.

9. KEYS: Owner shall provide Tenant(s) a unit entry key, and mailbox key,
 at no extra charge. Tenant shall pay a \$7.50 replacement charge per key
 for any lost key. Resident agrees not to install additional or different
 locks or gates on any doors or windows of the unit without the written
 approval of the Landlord.

10. INCAPACITATED TENANT: If the the Tenant becomes
 incapacitated in such way that he or she can no longer maintain independent
 living status, it will be necessary for the Tenant to vacate the dwelling unit and
 move to another facility such as a board and care home or a nursing home
 that can best meet the Tenant's needs. In the case of contagious disease,
 the Landlord can require immediate transfer to suitable facility. The Tenant
 may maintain occupancy rights to the dwelling unit during the temporary illness
 requiring transfer to other facilities. If Tenant vacates the unit and transfers
 to another facility for health reasons, and subsequently regains capacity
 for independent living, the Tenant may be given priority for a living unit in
 this development if he or she desires.

11. ACCURACY OF INFORMATION: It is expressly understood that
 the Owner has entered on to this Agreement on the basis of information
 provided by Tenant regarding Tenant's income and financial status. If
 any such information provided by Tenant was or is inaccurate, such
 fact shall represent a non-curable breach or a condition of this Agreement,
 and Owner may, at its option, terminate all rights of Tenant hereunder.

12. ANNUAL RECERTIFICATION: Every year around 90 days from
 the Resident's anniversary date the Landlord will request the Resident to
 report the income and composition of the Resident's household and to
 supply any other information required to determine the Resident's eligibility.
 The Resident agrees to provide accurate statements of this information and
 to do so by the date specified in the Landlord's request. The Landlord
 will verify the information supplied by the Resident and use the verified
 information to determine your continued eligibility to remain a Resident
 at the California Hotel.

13. REPORTING CHANGES BETWEEN REGULARLY
 SCHEDULED RECERTIFICATION: If any of the following changes
 occur, The Resident agrees to advise the Landlord immediately in writing.

14. PROHIBITED USES: Tenants shall not do anything or keep anything
 on the premises which will in any way increase the existing rate of fire or other
 insurance upon the premises, or cause a cancellation of any insurance policy
 covering the premises. Tenant shall not use the premises in a manner which
 conflicts with any law, statute, ordinance, or governmental rule or regulation
 now in force or which may hereafter be enacted. Please refer to the House
 Rules and Regulations which are attached.

15. ALTERATIONS: Tenants shall not make any alterations, additions,
 or improvements to the premises without the prior written consent of Owner.

16. LANDLORD: Tenant shall keep the premises and the property which the
 premises are situated free from any liens arising out of any work performed,
 materials furnished or obligations incurred by Tenant.

17. ASSIGNMENT AND SUBLETTING: Tenant shall not assign,
 transfer, mortgage, pledge, hypothecate, or encumber this Agreement, and
 shall not sublet the premises or allow any other person to occupy or use the
 premises. Any assignment or subletting of the premises by Tenant shall be
 grounds for Owner's immediate termination of this Agreement and shall be
 void. No interest of Tenant in this Agreement shall be assignable by operation
 law.

Exhibit A.

unless otherwise indicated. Tenant shall, at his/her own expense and at all times, maintain the premises, including all equipment, appliances, and furnishings, in a clean and sanitary manner, and shall surrender same at termination of this lease in as good condition as received, normal wear and tear excepted. Tenant shall be responsible for damages caused by his/her negligence and that of his/her family, invitees, guests. Tenants shall be responsible for any cleaning, extermination, or fumigation not necessary by the acts or negligence of the Tenant. Tenant shall not paper or otherwise redecorate or make alterations to the premises without the prior, written consent of the Owner.

DAMAGES: Whenever damage is caused by carelessness, misuse, or neglect on the part of the Resident, his/her family, visitors or any person under the Resident's control or permission, the Resident agrees to pay:

cost of all repairs and do so within 30 days after receipt of the Landlord's bill for the repair charges; and

for the period the premises is damaged whether or not the premises is habitable.

ENTRY BY OWNER: Owner or Owner's authorized agent reserves and shall have the right to enter the premises during normal business hours, giving Tenant 24 hours written notice, to inspect the premises, supply any service provided by Owner to Tenant hereunder, exhibit the premises to prospective renters, discuss, or nonresponsibility, or alter, improve or repair the premises. Owner may also for purposes erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed. Tenant hereby waives any claim of damage or loss or occupancy or quiet enjoyment of the premises other occasioned hereby. In the event of any emergency, Owner or Owner's authorized shall have the right of immediate entry to the premises.

Termination of this Agreement by the Landlord must be carried out in accordance with state and local laws, and the terms of this Agreement. The Landlord may terminate this Agreement for the following:

DAMAGES TO PREMISES: In the event the premises are damaged by fire or other cause, Owner shall have the option either to repair damage or restore unit, this Agreement being in full force and effect, or in the event of material damage rendering the premises uninhabitable, to give notice to Tenant at any time within ten (10) days after such damage occurs using this Agreement as of a date to be specified in such notice. In the event of the expiration of such notice, Agreement shall expire and all interest of the Tenant in the premises terminate. Owner shall not be required to repair any damage by fire or other cause, or any repair or any property installed in the premises by Tenant.

23. UNLAWFUL ACTIVITIES: The Tenant agrees upon threat of eviction not to:

allow guests or other household members to engage in Unlawful Activities in the common areas, or the project ground. These Unlawful Activities include but are not limited to the possession, use and/or sale of drugs and disturbances or acts of violence that damage or destroy existing unit or disturb or injure other Tenants.

Tenant agrees not to engage personally in Unlawful activities in the common areas. Such activities include but are not limited to those listed above.

ATTORNEY'S FEES: In the event of any action or proceeding brought by any party, the prevailing party waives the right to seek attorney's fees as the costs incurred in connection with any such action.

any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or of any other term, covenant or condition herein contained.

26. SUCCESSORS AND ASSIGNS: The Owner herein covenants by and for himself, his heirs, executors, administrators and assignee, and all persons claiming under or through him, and this lease is made and accepted upon and subject to the following conditions:

"That there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, sexual orientation, marital status, family status (children or no children), national origin or ancestry. Acquired Immune Deficiency Syndrome (AIDS) or AIDS related condition (ARC), physical handicap, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the owner or person claiming under or through owner establish nor permit any such practice or practices of discrimination or segregation with reference to the selection of location, number, use or occupancy or tenants, leasees, subtenants, subleasees in the premises herein leased."

"Owner is an equal opportunity housing provider"

27. PENALTIES FOR SUBMITTING FALSE INFORMATION: If the Tenant deliberately submits false information regarding income, family composition, or other data on which the Tenant's eligibility for rent is determined, the Owner may require the Tenant to pay a fair and reasonable market rent for as long as the Tenant remains in the project. In addition, the Tenant could become subject to penalties available under Federal Law. Those penalties include fines up to \$10,000.00 and imprisonment for up to five years.

28. MODIFICATION: This instrument contains all of the agreements and conditions made between the parties to this lease and may not be modified orally or in any other manner than by agreement in writing signed by all the parties to this lease or their respective successors in interest.

29. WAIVER OF CLAIMS: Owner shall not be liable to Tenant and Tenant waives all claims against Owner for any injury or damage to any person or property upon the premises from any cause whatsoever except that any injury or damage to any person or property upon the premises is caused by the Owner's own negligence.

31. RULES AND REGULATIONS: Resident is responsible for being aware of and abiding by all rules and regulations promulgated by Owner, including but not limited to, those which are attached hereto. Failure to comply with these Rules and Regulations will be considered a breach of this Agreement.

This Agreement is governed by the laws of the State of California and any question arising hereunder shall be determined according to such law.

[Signature]
Tenant Signature

Tenant Signature Date
LANDLORD: CALIFORNIA HOTEL
By: Oakland Community Housing Management, Agent

[Signature] Date: 7/21/03
HOTEL ADMINISTRATOR

92186582

RECEIVED

JUL 2 1992

RECORDED IN OFFICIAL RECORDS
OF ALAMEDA COUNTY, CALIF.
At 8:30 A.M.

TCAC

Recording requested by and when
recorded mail to:

JUN 11 1992

Tax Credit Allocation Committee
915 Capitol Mall, Room 485
Sacramento, CA 95814

D.H.

PATRICK O'CONNELL
COUNTY RECORDERFree Recording Requested
In Accordance With
Government Code 6103Space above this line
for Recorder's useREGULATORY AGREEMENT

This Regulatory Agreement (this "Agreement") is made between the Tax Credit Allocation Committee ("TCAC"), established under Section 50185 of the Health and Safety Code of the State of California, and CAHON Associates ("Owner") and is dated as of December 31, 1991. The Owner has requested and TCAC has authorized an allocation relating to the low-income housing credit under the provisions of Sections 17058 and 23610.5 of the Revenue and Taxation Code of the State of California (the "Tax Credit"). The Tax Credit relates to a multifamily rental housing project known as California Hotel identified in the records of TCAC by TCAC# CA-89-080 and located on the real property described in Exhibit A of this Agreement (the "Project"). Sections 17058(i) and 23610.5(i) of the Revenue and Taxation Code of the State of California require the Owner and TCAC to enter into this Agreement relating to the Tax Credit requirements. Accordingly, in consideration of the allocation relating to the Tax Credit by TCAC, the Owner and TCAC hereby agree as follows:

Section 1. Definitions. Unless the context otherwise requires, capitalized terms used in this Agreement shall have the following meanings:

"Agreement" means this Regulatory Agreement between TCAC and the Owner.

"Area Median Gross Income" means the median gross income of the area in which the Project is located as determined by the Secretary in a manner consistent with the determination of median gross income under Section 8 of the Housing Act, with adjustments for family size and adjustments for areas with unusually low family income or high housing costs relative to family income.

"Code" means those provisions of the Internal Revenue Code of 1986 as amended and regulations relating thereto which are applicable to the Project.

"Compliance Period" means 30 consecutive taxable years beginning with the first taxable year of the Credit Period.

Exhibit B

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"Credit Period" means, with respect to the State Tax Credit, the period of four taxable years beginning with the taxable year the Project is placed in service or (at the election of the Owner) the succeeding taxable year or (in the case of an allocation subject to Section 17058(n) of the Revenue and Taxation Code) the first taxable year beginning after December 31, 1989. The Owner hereby irrevocably elects to begin the Credit Period during the taxable year ending 1990.

"Economically Feasible" means that Project revenues equal or exceed the reasonable expenses necessary to operate and maintain the Project in habitable condition, to pay debt service and taxes, and to maintain reasonable reserves. In determining whether the Project is Economically Feasible, no return on investment shall be included as an offset of Project revenue. For purposes of this test, "debt service" shall not include that portion of payments of principal and interest attributable to any excess refinanced principal over the outstanding principal of the loan that was refinanced.

"Gross Rent" means all rentals paid by a Tenant, including the amount paid by the Tenant to the Owner or its designee for utilities and any other mandatory fees paid by the Tenant to the Owner, but excludes any payment under Section 8 of the Housing Act or any comparable federal rental assistance program or other rental assistance program allowed to be excluded under Section 42(g)(2) of the Code. If the Tenant pays his or her utilities directly, Gross Rent shall include any utility allowance prescribed by the Secretary.

"Housing Act" means the United States Housing Act of 1937, as amended, and any regulations pertaining thereto.

"Income" means the gross income of a Low-Income Tenant determined in a manner consistent with the requirements of section 142(d)(2)(B) of the Code. Income shall be determined at the time a Low-Income Tenant begins occupancy and shall be redetermined at least annually.

"Low Income" means, with respect to any tenant, an income level, not exceeding 60% of Area Median Gross Income.

"Low-Income Tenant" means a Tenant who, when the Tenant originally occupied the Unit, had an Income qualifying as Low Income. A Tenant will no longer qualify as a Low-Income Tenant if the Tenant's most recent Income exceeds 140% of Low Income.

"Low-Income Unit" means a Unit in the Project that is occupied by a Low-Income Tenant and is Rent-Restricted. However, if the Unit was a Low-Income Unit at the last annual income certification but the Tenant of the Unit is no longer a Low-Income Tenant, it will continue to be treated as a Low-Income Unit until the next available Unit of comparable or smaller size is rented to a Low-Income Tenant. If such rental does not return the total number of Low-Income Units to the Minimum Amount, then the Unit will continue to be treated as a Low-Income Unit until the next available Unit of comparable or smaller size is rented to a Low-Income Tenant, and so forth. A Low-Income Unit that is no longer occupied by the Low-Income Tenant will continue to be treated as a Low-Income Unit provided no other Units of comparable or smaller size in the Project are rented to Tenants who are not Low-Income Tenants and, if the Unit is vacated, reasonable attempts are made to rent the unit. In no case will a Unit be treated as a Low-Income Unit if all the Tenants of the Unit are students (as determined under Section 151(c)(4) of the Code), no one of whom is entitled to file a joint income tax return.

"Minimum Amount" means the number of Units in the Project required to be Low-Income Units. The minimum amount for this project is 100% of the units.

"Owner" means CAHON Associates, or successors.

"Project" means the residential rental housing project known as California Hotel, TCAC # CA-89-080 and located on the real property described in Exhibit A.

~~-----~~ "Qualified Low-Income Housing Project" means a residential rental project consisting of buildings or structures, together with functionally related and subordinate facilities, containing one or more similarly constructed Units available to members of the general public as rental Units and used on other than a transient basis. Factory-made housing that is permanently affixed to real property may qualify as Qualified Low-Income Housing Projects. Hotels, motels, dormitories, fraternity and sorority houses, rooming houses, hospitals, nursing homes, sanitariums, rest homes, retirement homes, lifecare facilities, and trailer parks and courts for use on a transient basis are not Qualified Low-Income Housing Projects. However, single room occupancy housing used on a non-transient basis (e.g., with an initial lease term of six months or greater) may be treated as a Qualified Low-Income Housing Project even though the housing may provide eating, cooking, and sanitation facilities on a shared basis. Buildings located on separate parcels of land that have similarly constructed Units may be treated as part of the same Qualified Low-Income Housing Project if they are owned for federal tax purposes by the same person and if they are financed pursuant to a common plan. A Qualified Low-Income Housing Project may not consist of fewer than five Units if one of the Units is occupied by the owner or a related person.

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"Rent-Restricted" means, with respect to any Unit, that the Gross Rent with respect to such Unit is not more than 30% of 60% of Area Median Gross Income.

"Secretary" means the Secretary of the Treasury of the United States.

"Tax Credit" means the low-income housing credit under the provisions of Sections 17058 and 23610.5 of the Revenue and Taxation Code of the State of California with respect to the Project.

"TCAC" means the Tax Credit Allocation Committee and its successor.

"Tenant" means the individual or individuals entitled to occupy a Unit in the Project by lease or other legal relationship with the Owner.

"Unit" means any unit in the Project consisting of an accommodation containing separate and complete facilities for living, sleeping, eating, cooking, and sanitation; provided, however, that single room occupancy housing used on a nontransient basis may be treated as one or more Units even though the housing may provide eating, cooking, and sanitation facilities on a shared basis.

Section 2. Term. This Agreement shall have a term equal to the Compliance Period.

~~Section 3. Filing. This Agreement shall be recorded in the~~
official records of the County of Alameda in which the Project is located.

Section 4. Qualified Low-Income Housing Project. The Owner shall maintain the Project as a Qualified Low-Income Housing Project for the entire Compliance Period, beginning not later than the close of the first year of the credit period. In addition, the Owner shall operate the Project such that at least the Minimum Amount of the Units in the Project are Low-Income Units.

Section 5. Annual Determinations. At least annually the Owner shall determine and certify the Income of each Low-Income Tenant and shall determine whether at least a Minimum Amount of the Units of the Project are Low-Income Units. The Owner shall annually certify to the TCAC (on such forms as are prescribed by the TCAC) that at least the Minimum Amount of the Project continues to be Low-Income Units. TCAC may accept copies of the most recent certification to the Secretary.

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Section 6. Residential Rental Requirements. The Owner will hold all Units in the Project continually open for rental purposes during the Compliance Period and take affirmative steps to seek qualified tenants.

Section 7. Limit on Cashflow. The Owner shall be entitled to receive an annual cash distribution from the operation of the Project, after funding required reserves, equal to the greater of

(A) 8 percent of the lesser of (i) the Owner's capital contributions actually paid in (excluding any amounts represented by an investor note until actually paid) or (ii) 20 percent of the adjusted basis of the Project at the close of the first year of the Credit Period; or

(B) the amount of net cash flow from the Units in the Project that are not Low-Income Units (determined after allocating operating costs using the floor space fraction described in section 42 of the Code).

If the amount allowed to be distributed under (A) above is greater during any of the first 5 years of the Compliance Period than the amount actually available to be distributed, the excess allowable distribution may be accumulated and distributed at any time during the first 15 years of the Compliance Period. This limitation on return shall apply in the aggregate to all partners or shareholders of the Owner. The Owner shall apply any cash available for distribution in excess of the limits described above to reduce the rent on the Low-Income Units or to increase the number of Low-Income Units.

Section 8. Reduction in Low-Income Units. If, after the first 18 years of the Compliance Period, the Project is not Economically Feasible, the Owner shall be entitled to reduce the Minimum Amount by one or more Units as is necessary for the Project to become Economically Feasible. Once the Project is again Economically Feasible, the Owner shall increase the Minimum Amount and only rent the next available Units to Low-Income Tenants (such that they qualify as Low-Income Units), up to the original Minimum Amount, while keeping the Project Economically Feasible. The Owner shall notify the TCAC or its designee if the Owner intends to reduce the Minimum Amount pursuant to this section. Notification to the TCAC will be made 30 days prior to the date the Owner plans to reduce the Minimum Amount of Units.

Section 9. Notification of Noncompliance. The Owner shall notify the TCAC or its designee if there is a determination by the Internal Revenue Service that the Project is not in compliance with Section 42(g) of the Internal Revenue Code. Notification to the TCAC will be made within ten business days of receipt of the above IRS determination.

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Section 10. Security for Performance. The Owner hereby assigns its interest in the rents from the Project to the TCAC as security for the performance of the Owner's obligations under this Agreement. However, until and unless the Owner defaults in its obligations under this Agreement, the Owner is entitled to collect and retain such rents.

Section 11. Remedies. In the event the Owner defaults in its obligations under this Agreement and such default is not cured within a reasonable time period, the remedies of TCAC and the Tenants shall include, but are not limited to, the following:

- a. collecting all rents with respect to the Project;
- b. taking possession of the Project and operating the Project in accordance with this Agreement until the Owner is in a position to operate the Project in accordance with this Agreement;
- c. applying to any court for specific performance;
- d. securing the appointment of a receiver to operate the Project; or
- e. any other relief as may be appropriate.

Section 12. Enforceability. This Agreement may be enforced by TCAC or its designee in the event the Owner fails to satisfy any of the requirements of the Agreement. In addition, the Agreement shall be deemed a contract enforceable by one or more Tenants, or by persons meeting the Low Income restriction, whether past, present, or prospective Tenants, as third-party beneficiaries of the Agreement. In the event the Owner fails to satisfy the requirements of this Agreement and legal costs are incurred, such legal costs, including attorney fees and court costs, are the responsibility of the Owner.

Section 13. No Conflicting Agreements. The Owner warrants that it is not bound by and will not execute any other agreement with provisions that bind it to violate the provisions of this Agreement; however, with the approval of TCAC, it may be subordinated, if required, to any lien or encumbrance of any banks or other institutional lenders to the project.

Section 14. Successors Bound. Subject to Section 16, this Agreement and the covenants and conditions contained herein shall run with the land and shall bind, and the benefits shall inure to, respectively, the Owner and its successors and assigns and all subsequent owners of the Project or any interest therein, and TCAC and its successors and assigns, for the compliance period. Upon termination of this Agreement, the covenants and conditions contained herein shall expire.

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Section 15. Amendments; Waivers. Except as otherwise provided in this Agreement, this Agreement may not be amended, changed, modified, altered or terminated except by written instrument executed and acknowledged by each of the parties hereto or their successors and duly recorded in the official records of the county in which this Agreement is recorded. Any waiver of any provision of this Agreement shall not be deemed to be an amendment hereof.

Section 16. Assignment by Owner. Upon sale or transfer of the Project, the Owner shall be relieved of all obligations under the Agreement and the transferee shall be bound by all of the Owner's rights and obligations. The Owner shall notify TCAC of any transfer of the project and provide the names and addresses of the new owner and operator. Changes in the constituents of the Owner shall not constitute a default under this Agreement.

Section 17. Notices. All notices, certificates or other communications shall be sufficiently given and shall be deemed on the second day following the date on which the same have been mailed by certified mail, postage prepaid, or sent by other method which produces evidence of delivery thereof, addressed as follows:

To the TCAC: Tax Credit Allocation Committee
915 Capitol Mall, Room 485
Sacramento, CA 95814

To the Owner: CAHON Associates
c/o Oakland Community Housing Inc.
~~330 15th Street~~ 405 14th Street, Suite 400
~~Oakland, CA 94612~~

The TCAC and the Owner may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

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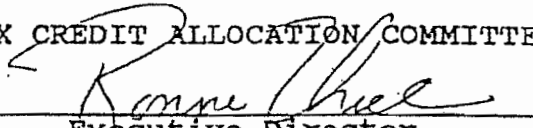
Section 18. Severability. The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective duly authorized representatives, as of the day and year first written above.

TAX CREDIT ALLOCATION COMMITTEE

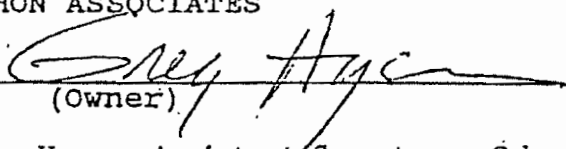
[SEAL]

By


Executive Director

CAHON ASSOCIATES

By

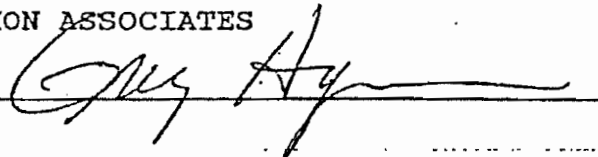

(Owner)

Greg Hyson, Assistant Secretary, Cahon, Inc. its
(Please type or print name) Managing General Partner

The undersigned, owners of the property described on Exhibit A hereto, hereby consent to recordation of this Regulatory Agreement against such property, and agree that such property shall be bound by the provisions thereof.

CAHON ASSOCIATES

By



92186582

EXHIBIT A
to Regulatory Agreement

Description of the real property
on which the Project is located

Location: 3501 San Pablo Ave.
Oakland, CA 94608

Legal
Description: See Attached

Project
Size
Description: 1 Building; 150 Low-Income Units
16 Studio; 75 SRO; 58 Efficiency

92186582

EXHIBIT "A"

The land referred to in this policy is situated in the County of Alameda, City of Oakland, State of California, and is described as follows:

Parcel 1:

Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 25, 26, 27, 28, 29, 30 and 31 in Block 683, as said Lots and Block are shown on the Map entitled "Map of the Glascock Tract, Oakland," etc., filed July 16, 1877 in Book 5 of Maps at Page 21 in the Office of the County Recorder of Alameda County.

Parcel 2:

All that portion of Lot 1 in said Block 683, that lies Southerly of a line drawn from a point on the Western line of San Pablo Avenue, distant thereon Southerly, 129 feet, 8 inches from the point of intersection thereof with the Eastern line of Chestnut Street, as said Avenue and Street are shown on the Map hereinafter referred to, Westarly in a direct line to a point on the said Eastern line of Chestnut Street, distant thereon Southerly 139 feet, 8 inches from the point of intersection thereof with the said Western line of said San Pablo Avenue, as said Lots and Block are shown on the Map herein referred to.

Parcel 3:

A portion of Lot 1 in Block 683, as said Lot and Block are shown on the "Map of the Glascock Tract, Oakland," filed July 16, 1877 in Book 5 of Maps at Page 21 in the Office of the County Recorder of Alameda County, more particularly described as follows:

Commencing at the most Easterly corner of that parcel of land described in Deed Number 18224 to the State of California recorded April 28, 1959 in Volume 9008 at Page 19, Official Record of Alameda County; thence along the Southerly line of said parcel South $84^{\circ}08'15''$ West, 71.11 feet to the Westerly line of said parcel, being also the Easterly line of Chestnut Street; thence along last said Easterly line, North $17^{\circ}06'13''$ East, 31.71 feet, thence from a tangent that bears South $69^{\circ}57'30''$ East, along a curve to the right with a radius of 3,574.00 feet, through an angle of $1^{\circ}03'06''$, an arc length of 65.60 feet to the point of commencement.

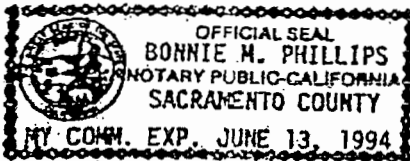
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ACKNOWLEDGEMENT

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO)

On this 14th day of May, in the year 1992, before me, Bonnie M. Phillips personally appeared Ronne Thielen, personally know to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the foregoing instrument as Executive Director of the Tax Credit Allocation Committee and acknowledged to me that the Tax Credit Allocation Committee executed it.

Given under my hand and official seal this 14th day of May, 1992.



[SEAL]

Bonnie M. Phillips
Notary Public

My Commission Expires:

June 13, 1994

ACKNOWLEDGEMENT

92186582

STATE OF CALIFORNIA)
COUNTY OF ALAMEDA)

On this 1st day of April in the year 1992,
before me, Lily Mayumi Kimura, personally appeared
ELEONOR ALONSO AYSON, personally known to me (or
proved to me on the basis of satisfactory evidence) to be the
owner(s) of CAITON ASSOC, who executed
the within instrument.

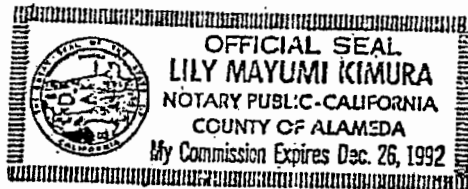
Given under my hand and official seal this 1st day of
April, 1992.

[SEAL]

Lily Mayumi Kimura
Notary Public

My Commission Expires:

12-26-92





June 18, 2008

Dear Residents,

The John Stewart Company will no longer be the management agent for your community effective July 15, 2008.

It has been a pleasure working with you and we wish you the best.

You should be receiving further communication regarding ongoing management.

Sincerely,

The John Stewart Company

A handwritten signature in cursive script, appearing to read 'Loren Sanborn'.

Loren Sanborn
Sr. Vice President

cc: Charles Fowlkes
Marge Gladman
Christia Mulvey

Exhibit C.

June 20, 2008

To All Residents of the California Hotel:

As described in the accompanying letter, John Stewart Company will no longer be managing the property as of July 15, 2008. Cahon Associates, Inc., the owner of the building, cannot afford to hire another management company to operate the California Hotel or subsidize the operating deficit that exists at the property. In addition, local and state law require onsite management for buildings the size of the California hotel. If the owner does not replace the onsite manager, the building will be out of compliance with local and state law.

As a result, the building may close down shortly after July 15th. Tenants should begin to look for another place to live and plan to vacate the building on or before July 15th. Eden Information & Referral (Eden I&R) will be available to provide some tenant assistance to help in your search for new housing. This assistance will include first and last month rent for your new housing (upon verification, a check would be provided directly to your new landlord) as well as help providing housing referrals. Tenants are responsible for signing up to meet with Eden I&R staff in order to receive these services.

Please plan to attend a Community Meeting on Monday, June 23rd or Tuesday, June 24th at 6:30pm to learn about the assistance that will be available to you. The meetings will be located in the lobby of the California Hotel. Staff from the City, Eden I & R, John Stewart Company and Lifelong Medical Care will be available to answer your questions. Food will be provided.

This is difficult news to receive. Support and assistance will be available to you throughout this transition. If you experience severe emotional distress, please contact the one of the following resources for guidance:

<i>Alameda County Crisis Support Services Hotline:</i>	<i>1-800-309-2131</i>
<i>Oakland Mobile Crisis Units</i>	<i>1-510-268-7837</i>
<i>Alameda County Mental Health Access Line:</i>	<i>1-800-491-9099</i>
<i>Health, Housing & Human Services Hotline:</i>	<i>211</i>

It is strongly recommended that you attend this important meeting on Monday or Tuesday to find out additional information about the assistance available to you.

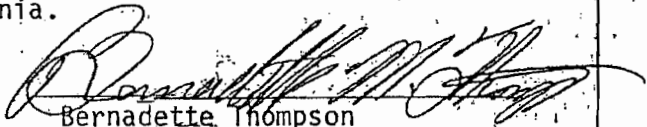
1 VERIFICATION

2 I, Bernadette Thompson, depose and say:

3 1. I am a Plaintiff in this case.

4 2. I have read the foregoing Complaint for Damages. It is true and correct as to all
5 matters which are alleged herein, and for those alleged on information and belief which are
6 based on information and belief.

7 I declare that the preceding is true and correct under penalty of perjury. Executed on
8 July 2, 2008, in Oakland, California.

9 
10 Bernadette Thompson
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